

Explanatory Memorandum - The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Regulation and Inspection of Social Care) (Miscellaneous Amendments) (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Regulation and Inspection of Social Care) (Miscellaneous Amendments) (Wales) Regulations 2026. I am satisfied that the benefits justify the likely costs.

Dawn Bowden MS
Minister for Children and Social Care
13 January 2026

PART 1

1. Description

- 1.1 The draft Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Regulation and Inspection of Social Care) (Miscellaneous Amendments) (Wales) Regulations 2026 (“the draft Regulations”) amend the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) in relation to the implementation in relation to Wales of provisions relating to the recognition of professional qualifications contained in:
- (a) the free trade agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland done at London on 8 July 2021 (“the EEA EFTA free trade agreement”), and
 - (b) the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Recognition of Professional Qualifications done at London on 14 June 2023 (“the Swiss Agreement”).
- 1.2 The draft Regulations are made in exercise of the powers conferred on the Welsh Ministers as an “appropriate national authority” by sections 3(1), (2) and 13(1) of the Professional Qualifications Act 2022 (“the 2022” Act”). Section 16 of the 2022 Act defines “appropriate national authority” for the purposes of that Act.
- 1.3 Parts 3 to 8 of the 2016 Act establish Social Care Wales (“SCW”) as the body that regulates the social care profession in Wales (that profession is referred to as “social care workers” in that Act), and they make provision about the registration and fitness of such workers to practise in Wales.
- 1.4 Regulations 2 to 15 of the draft Regulations make amendments to the 2016 Act to give effect, within the framework established for the regulation of social care workers in Wales, to the provisions relating to the recognition of professional qualifications contained in the EEA EFTA free trade agreement and the Swiss Agreement.
- 1.5 Regulation 16 of the draft Regulations makes amendments to Schedule 1 to the Recognition of Professional Qualifications and Implementation of International Agreements (Wales) (Amendment etc.) Regulations 2023 to omit social care workers in Wales from the list of professions contained in that Schedule. The effect of this amendment is that the regulation of social care workers by SCW, including applicants from countries covered by the EEA EFTA free trade agreement and the Swiss Agreement will be governed by the provision made in the 2016 Act and in the rules made by SCW by virtue of that Act.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

2.1 None.

3. Legislative background

3.1 Paragraph 10 (foreign affairs, etc.) of Schedule 7A (reserved matters) to the Government of Wales Act 2006 provides that international relations and the regulation of international trade is reserved. However, observing and implementing international obligations is not and Welsh Ministers therefore have the legislative competence to implement international obligations in matters that are devolved.

3.2 The Professional Qualifications Act 2022 (“the 2022 Act”) ended the interim system for recognition of professional qualifications that derived from the UK’s membership of the EU; and created a new framework for the recognition of overseas professional qualifications and experience in the UK, or a part of the UK.

3.3 Section 3(1) of the 2022 Act provides that the appropriate national authority may, by regulations, make such provision as the authority considers appropriate for the purpose of, or in connection with, implementing any international recognition agreement to which the United Kingdom is a party. “appropriate national authority” is defined (by section 16 of the 2022 Act) as either the Secretary of State or the Lord Chancellor, or the Welsh Ministers in relation to regulations under the Act which contain only provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

3.4 The Secretary of State has used the concurrent powers in the 2022 Act to make the UK Government’s Recognition of Professional Qualifications and the Implementation of International Recognition Agreements (Amendment) Regulations 2023 (“the UK Government’s 2023 Regulations”) to implement the EEA EFTA free trade agreement across the UK. The UK Government’s 2023 Regulations included provision to implement that agreement in relation to subject areas which are devolved to Wales and imposed statutory duties on Welsh regulators.

3.5 The Welsh Ministers and the Senedd opposed the inclusion of concurrent powers in the Professional Qualifications Act 2022 during the passage of the then Bill.

3.6 In response, Welsh Ministers introduced the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Wales) (Amendment etc.) Regulations 2023 (“the 2023 Regulations”) to disapply the UK Government’s 2023 Regulations in relation to Welsh regulators and make appropriate provision in relation to Wales.

- 3.7 The 2023 Regulations were made under the negative resolution procedure as provided for by section 18 of the Professional Qualifications Act 2022. However, to make amendments to the 2016 Act, these Regulations would need to be made under the affirmative resolution.
- 3.8 It was not possible to draft and make an affirmative instrument dealing with amendments to the 2016 Act to coincide with commencement of the UK Government's Regulations.
- 3.9 The 2023 Regulations were amended with effect from 1 January 2025 to include further requirements in relation to all of the Welsh regulated professions arising from the UK-Switzerland Recognition of Professional Qualifications Agreement.
- 3.10 Pending the amendments to the 2016 Act, the 2023 Regulations applied to relevant applicants from the specified countries. These Regulations overlaid the regulatory framework set out in the 2016 Act. Therefore, an applicant seeking registration from one of the relevant countries would still have been able to enforce their EEA EFTA free trade rights (and from 1 January 2025 under the Swiss Agreement) through the provisions of the 2023 Regulations and the rules made by SCW in accordance with powers under the 2016 Act.
- 3.11 These Regulations are subject to the Senedd approval procedure in accordance with section 18(1), (6)(b) and (8) of the Professional Qualifications Act 2022⁽¹⁾.

4. Purpose and intended effect of the legislation

- 4.1 The purpose of the proposed Regulations is to amend the 2016 Act to give effect, within the framework established for the regulation of social care workers in Wales, to the provisions relating to the recognition of professional qualifications contained in the EEA EFTA free trade agreement and the Swiss Agreement.
- 4.2 The 2023 Regulations are also amended to remove social care workers and SCW as their regulator from the scope of those Regulations.
- 4.3 The amendments made by the proposed Regulations will improve the accessibility of the legislative requirements for both SCW as the regulator, and for prospective applicants, who wish to take advantage of the rights relating to the recognition of professional qualifications established by the

⁽¹⁾ Section 1 of the Legislation (Procedure, Publication and Repeals) (Wales) Act 2005 inserts a new Part 2A into the Legislation (Wales) Act 2019; the effect of this change replaces the draft affirmative procedure with the approval procedure and the negative procedure with the Senedd annulment procedure. Article 2 of the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 (Commencement and Transitional and Saving Provisions) Order 2025 applies the new Senedd procedures to Welsh statutory instruments, with effect from 1 January 2026.

EEA EFTA free trade agreement and the Swiss Agreement, when making an application for registration as a social care worker in Wales.

5. Consultation

5.1 Section 15 of the 2022 Act requires the appropriate national authority, when making regulations under section 3 of the Act, to consult regulators likely to be affected by the regulations, or where it is otherwise appropriate to consult them. The Welsh Government have consulted SCW upon the development of and final version of the draft Regulations.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

6.1 Two options have been considered in this assessment.

Option 1 – do nothing.

Option 2 – lay draft Regulations make amendments to the 2016 Act.

Option 1: Do nothing

6.2 We could not make the amendments made to the 2016 Act. The 2023 Regulations would continue to confer on an applicant seeking registration from one of the EEA EFTA countries or Switzerland (“relevant applicants”) the ability to enforce their rights relating to the recognition of professional qualifications through these provisions.

6.3 The 2023 Regulations overlay the regulatory framework set out the 2016 Act and the administrative rules made by SCW using powers under that Act. Whilst these do work alongside the 2016 Act, the need to consider the provision made by the Act, alongside the 2023 Regulations and the relevant rules made by SCW means that the regulatory requirements are less accessible for both relevant applicants and SCW.

Option 2: Make the amendments

6.4 The amendments made by the draft Regulations will give effect, within the primary legislative framework established for the regulation of social care workers in Wales, to the provisions relating to the recognition of professional qualifications contained in the EEA EFTA free trade agreement and the Swiss Agreement

6.5 The amendments to the 2016 Act made by the draft Regulations will improve the accessibility of the law for both relevant applicants and SCW as the regulator.

7. Costs and benefits

Option 1 - Do nothing

Social Care Wales

7.1 To date, SCW has not received any applications from individuals from any of the EEA EFTA member states.

7.2 The current processes and procedures already incur an administrative burden on the regulator, which it has estimated to currently cost at:

- i. Aptitude test – This requires three reviewers, the use of Social Care Wales premises/resources (£50), and staff time (£353), which would equate to an estimated minimum cost of £403 per application.
- ii. Adaptation – This requires some administrative process by registration colleagues and reviewer time for submitted portfolios. An estimated 2 hours (£30) of registration staff time is required and approximately 3 hours of reviewer time (£84), a total of £124 per application.

7.3 However, these costs can be offset by the regulator as SCW charges a fee for registration and an annual registration renewal fee. All regulated social workers and social care workers are required to pay these fees, regardless of whether a UK-resident or international worker.

7.4 Overseas applications for those wishing to register as a social worker incur fees. These charges cover the costs of SCW staff confirming whether their qualifications are comparable to UK qualifications.

7.5 If the applicant for a social worker position has a letter of verification, they will be subject to the standard £80 registration fee and subsequent annual renewal of registration fees for social workers. However, without this letter applicants will pay a fee of £350 to get their qualification verified; and can also request an aptitude test at an additional cost of £200.

7.6 This process is not yet available for anyone wishing to join the register as a social care manager or social care worker, but a transferability programme is being developed which seeks to address this need. Like the registration fees, the fees charged for this service will be proportionate to the roles and the administration processes required.

Welsh Government

7.7 There are no expected additional costs associated with these proposals, as any additional resources required by the regulator are expected to be met through the annual grant-in-aid award provided by the Welsh Government. This provides most of the funding for the regulation of the social care workforce, including the registration and Fitness to Practice processes.

Social care workforce/Employers

7.8 It is difficult to quantify the impacts upon individuals who may wish to register as a social care worker, as we do not currently have a clear picture of the potential number of applicants from the EEA countries or Switzerland that this might affect. SCW have confirmed that they have not received any applications from any individual from the EEA countries since 2017, when it had one application from a Norwegian. However, for those wishing to join as social workers, SCW has a clear fee system, and this is included on their website and in their rules as outlined at para. 8.6 above.

7.9 This is equally transferable to any employer who wishes to support an overseas applicant. We will work with SCW colleagues to understand how these costs may be clarified as the work on the transferability project progresses and amend this document in due course.

Option 2: Make the amendments.

7.10 Amendments to the 2016 Act are necessary to ensure accessibility and clarity of law.

Social Care Wales

7.11 The proposals may incur some increase in the administrative costs for the regulator, should both adaptation periods and aptitude tests need to be amended to ensure these have independent assessment and reviews.

7.12 It is difficult to estimate whether there is a need to amend the current processes outlined at para. 7.2, as SCW has not received any applications from individuals from the EEA EFTA member states since the introduction of the 2023 Regulations. However, these costs may be mitigated in part by the fact that the regulator charges a fee for the delivery of an aptitude test, which is the choice of the applicant. The current fees² for social workers who do not have a letter of verification is £350 to have their qualification checked against UK qualifications and additional £200 if the applicant wishes to complete an aptitude test. There are no similar charges for social care managers and social care workers.

Welsh Government

7.13 There are no expected additional costs associated with these proposals, as any additional resources required by the regulator are expected to be met through the annual grant-in-aid award provided by the Welsh Government. This provides most of the funding for the regulation of the social care workforce, including registration and Fitness to Practice processes.

Social care workforce/Employers

7.14 It is difficult to quantify the potential costs for individuals, as the potential impacts will vary from person to person and the costs will be impacted by a variety of factors.

e.g. completing the necessary compensation measures can be complex for applicants, particularly if they are based overseas, where they may not be able secure a setting to undertake a compensation measure due to pressure on services and/or because of a lack of a visa to enter the UK to undertake them. It may also be that employers or voluntary agencies do not have the time or resources to help assist individuals collate the necessary evidencing of the skills/knowledge needed to complete adaptation periods. Social Care Wales

² <https://socialcare.wales/registration/fees> - Current fees 2nd bullet point.

does not provide any financial support to help with this, so any additional costs would be met by the employers or voluntary agencies.

7.15 There is no current formal arrangement for verifying the qualifications of overseas social care workers wishing to register with SCW. However, we can expect the process follows a similar approach to that outlined for overseas social workers, as SCW would need to liaise with other UK and international professional bodies and organisations to be able to check whether these qualifications are comparable to those across the UK.

7.16 If we use the current fees as an example, assuming that all the necessary evidence is readily to hand, an individual (or employer or agency if they do this instead of, or support the worker) will expect to pay the following to join the Welsh social care workforce register:

Scenario 1: They have a letter of verification

The applicant has provided all the necessary evidence to accompany their application, and this is acceptable to the regulator, they will only need to pay the annual registration fee for their role – i.e. if a social worker, £80.

Scenario 2: No letter of verification but evidence supports registration

The applicant puts together their application and submits it to SCW with the £350 fee for SCW to check and verify the qualification and its equivalence to meet the registration requirements in Wales. If the qualification meets the requirements and the evidence provided is assessed and supports their application, they will receive the regulator's approval to register and pay the required annual registration fee - if applying to work as a social worker, this would be £80.

After paying all the above fees, an individual or employer/agency will have paid a total of £430 to register in Wales.

Scenario 3: No letter of verification and evidence does not meet registration requirements

The applicant pays the fee of £350 for SCW to check and verify the qualification and that it is of equivalence to meet the registration requirements in Wales. To support their application, if the evidence provided does not sway the registrar, an applicant can pay an additional cost of £200 to undertake an aptitude test to show their skills and knowledge are able to meet the necessary requirements. If the qualification is verified and accepted; and the evidence provided is assessed to be acceptable, they will be allowed to register – i.e. as a social worker – and pay the annual £80 registration fee.

After paying all the above fees, an individual or employer/agency will have paid a total of £630 to register in Wales.

N.B. None of the costs above include the additional funds an individual will need to pay to secure a UK work visa – i.e. visa application fees can range from between £551 to £1,500, a healthcare surcharge of £624 per year and proof that an individual can support themselves in the UK if their employer cannot cover the costs. Employers can apply for a sponsorship licence which, depending upon the type of worker they are sponsoring, can range from between £536 and £1,476³.

Summary and preferred option

The preferred option is Option 2, as this provides the necessary legislative clarity and places a requirement that ensures that the regulator and public have a clear and concise overview of the process and what compensatory measures are available for registering as a social care or early years worker in Wales. The proposals will also future-proof the legislation regulating and inspecting social care in Wales against further FTA arrangements.

9. Competition Assessment

A competition filter test has been applied to these proposals and show that these are not likely to have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

We do not consider it necessary to undertake a competition assessment for these Regulations since they will not affect the business sector in any significant way.

10. Post implementation review

The Welsh government will work with Social Care Wales to develop a post-implementation review of the registration programme by 2026.

³ <https://www.gov.uk/uk-visa-sponsorship-employers/apply-for-your-licence> - UK Govt. HM Visa and Immigration Dept. sponsorship for employers guidance.