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STATUTORY INSTRUMENTS

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**2020 No. 1394**

**The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendment etc.) (EU Exit) Regulations 2020**

**PART 2**

**Amendments to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019**

**Amendments to Part 2 of Schedule 1 (medical practitioners)**

9.—(1) Part 2 of Schedule 1 is amended as follows.

(2) In paragraphs 66(1) and 67(1), for “exit day” substitute “IP completion day”.

(3) After paragraph 67 insert—

**“Swiss medical practitioners: saving of old law**

**67A.**—(1) This paragraph applies where—

- (a) an application to be registered, or provisionally registered, under the 1983 Act is received from a qualifying Swiss applicant before the end of the Swiss recognition period, or
- (b) an application to be registered under the 1983 Act is received from a qualifying Swiss applicant who is, immediately before the end of the Swiss recognition period, provisionally registered under the 1983 Act.

(2) Where this paragraph applies, any provision made by or under the 1983 Act continues to apply in relation to the application (including any appeal arising from it) without the amendments that Part 1 of this Schedule makes to the establishment provisions (but subject to the modifications to the 1983 Act and the 2010 Order specified in sub-paragraphs (4) and (5)).

(3) The reference in sub-paragraph (2) to “the establishment provisions” is to the provisions of the following enactments—

- (a) the 1983 Act other than—
  - (i) the provisions of that Act mentioned in the table following paragraph 68(3) of this Schedule, and
  - (ii) sections 5(2A), 21B, 21C, 34D(5), 34G, 34J, 34K, 34L, 44B and 46(2A)(b)(1);
- (b) the National Health Service Pension Scheme Regulations 2008(2);

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(1) Section 5(2A) was inserted by [S.I. 1996/1591](#) and amended by [S.I. 2006/1914](#), [2007/3101](#) and [2008/3131](#). Sections 21B and 21C were inserted by [S.I. 2006/1914](#) and amended by [S.I. 2007/3101](#). Sections 34D, 34G, 34J and 34K were inserted by [S.I. 2010/234](#). Section 44B(3) was substituted by [S.I. 2007/3101](#). Section 46(2A) was substituted by [S.I. 2016/1914](#) and amended by [S.I. 2010/234](#) and [2011/1043](#).

(2) [S.I. 2008/653](#).

- (c) the 2010 Order other than the provisions of that Order mentioned in the table following paragraph 68(3);
  - (d) the National Health Service Pension Scheme Regulations 2015<sup>(3)</sup>;
  - (e) the National Health Service (General Medical Services Contracts) Regulations 2015<sup>(4)</sup>;
  - (f) the National Health Service (Personal Medical Services Agreements) Regulations 2015<sup>(5)</sup>.
- (4) The modifications to the 1983 Act mentioned in sub-paragraph (2) are—
- (a) section 3<sup>(6)</sup> is to be read as if—
    - (i) in subsection (1) for paragraph (b) there were substituted—
      - “(b) being a Swiss national—
        - (i) holds one or more primary European qualifications, and
        - (ii) makes an application, before the end of the Swiss recognition period, for registration under this paragraph, or is, at the end of that period, provisionally registered under section 15A (provisional registrations for EEA nationals etc),
      - (c) being a national of the United Kingdom—
        - (i) holds one or more primary European qualifications obtained in Switzerland, and
        - (ii) makes an application, before the end of the Swiss recognition period, for registration under this paragraph, or is, at the end of that period provisionally registered under section 15A, or
      - (d) being a national of the United Kingdom who is established in Switzerland and—
        - (i) holds one or more primary European qualifications none of which was obtained in Switzerland, and
        - (ii) makes an application, before the end of the Swiss recognition period, for registration under this paragraph, or is, at the end of that period, provisionally registered under section 15A,”;
    - (ii) for subsection (2) there were substituted—
      - “(2) Any person who is a third country national and was, immediately before IP completion day, by virtue of an enforceable EU right (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019) entitled to be treated no less favourably than a national of either the United Kingdom or Switzerland for the purposes of access to and pursuit of the medical profession, shall be treated for the purposes of—
        - (a) subsection (1)(b), as if he were a Swiss national, or
        - (b) subsection (1)(c) or (d), as if he were a United Kingdom national,
 and shall be treated no less favourably than if he were a national of either of those states, as the case may be.”;

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<sup>(3)</sup> S.I. 2015/94.

<sup>(4)</sup> S.I. 2015/1862.

<sup>(5)</sup> S.I. 2015/1879.

<sup>(6)</sup> The relevant amending instrument is S.I. 2007/3101.

- (b) section 5(4)(7) is to be read as if, in the definition of “the Directive”, for “amended from time to time” there were substituted “it had effect immediately before IP completion day”;
- (c) section 14 is to be read as if—
  - (i) subsection (3) were omitted;
  - (ii) in subsection (4)(a), for “national of a relevant European State” there were substituted “qualifying Swiss applicant”;
- (d) section 14A(8) is to be read as if—
  - (i) in subsection (1)—
    - (aa) in the words before paragraph (a), for “national of a relevant European State” there were substituted “qualifying Swiss applicant”;
    - (bb) before paragraph (a), there were inserted—
      - “(zb) who makes an application for registration under this section before the end of the Swiss recognition period.”;
  - (ii) subsection (2) were omitted;
- (e) section 15A(9) is to be read as if—
  - (i) in subsections (1) and (2), for the words “national of a relevant European State” there were substituted “qualifying Swiss applicant”;
  - (ii) in subsection (2), for the words “his fitness to practise is not impaired” there were substituted—
    - “—
    - (c) the person makes an application, before the end of the Swiss recognition period, for registration under this section, and
    - (d) the person’s fitness to practise is not impaired.”;
  - (iii) subsection (3) were omitted;
  - (iv) in subsection (5), after “medical training” there were inserted “in a relevant European State”;
- (f) section 16(2) is to be read as if “other than a primary United Kingdom qualification” were omitted;
- (g) section 17(1) is to be read as if “other than the United Kingdom” were omitted;
- (h) section 19(10) is to be read as if—
  - (i) before subsection (1), there were inserted—
    - “(A1) Subsection (1) applies only in relation to a qualifying Swiss applicant—
    - (a) who has made an application, before the end of the Swiss recognition period, for registration under this section, or
    - (b) who is provisionally registered under section 21.”;
  - (ii) in subsection (1)—
    - (aa) in the words before paragraph (a), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (bb) for paragraph (aa), there were substituted—

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(7) The definition of “the Directive” in section 5(4) was substituted by [S.I. 2007/3103](#).

(8) Section 14A was inserted by [S.I. 2007/3101](#) and amended by [S.I. 2011/1043](#) and [2016/1030](#).

(9) Section 15A was inserted by [S.I. 2000/3041](#) and amended by [S.I. 2007/3101](#), [2006/1914](#) and [2011/1043](#).

(10) Section 19 was substituted by [S.I. 2002/3135](#). Relevant amending instruments are [S.I. 2006/1914](#), [2007/3101](#) and [2011/1043](#).

- “(aa) that qualification has been recognised by a competent authority in Switzerland pursuant to Article 2(2) of the Directive as qualifying the person to practise as a medical practitioner in Switzerland.”;
- (iii) subsection (2) were omitted;
- (iv) in subsection (3), paragraph (a) were omitted;
- (i) section 19A(11) is to be read as if—
- (i) in the words before paragraph (a), for “An exempt person” there were substituted “A qualifying Swiss applicant”;
- (ii) before paragraph (a), there were inserted—
- “(zb) who has made an application for registration under this section before the end of the Swiss recognition period.”;
- (j) section 21(12) is to be read as if for subsection (2) there were substituted—
- “(2) Where a qualifying Swiss applicant—
- (a) makes an application to the General Council, before the end of the Swiss recognition period, to be provisionally registered under this section, and
- (b) satisfies the Registrar of the matters specified in paragraphs (a), (aa) and (c) of section 19(1),
- the practitioner shall, if the Council think fit so to direct, be provisionally registered under this section.”;
- (k) section 55(1)(13) is to be read as if—
- (i) in the definition of “the General Systems Regulations”, at the end, there were inserted “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 of regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”;
- (ii) in the appropriate places, there were inserted—
- ““qualifying Swiss applicant” has the meaning given in paragraph 67A(6) of Schedule 1 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.”;
- ““Swiss recognition period” means the period of four years beginning with the day immediately after IP completion day.”;
- (iii) after subsection (1), there were inserted—
- “(1ZB) For the purposes of this Act, an application for registration is made when it is received by the Registrar.”.
- (5) The modifications to the 2010 Order mentioned in sub-paragraph (2) are—
- (a) article 2 is to be read as if—
- (i) after the definition of “the Act”, there were inserted—
- ““the Directive” 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.”;

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(11) Section 19A was inserted by [S.I. 2007/3101](#) and amended by [S.I. 2016/1030](#).

(12) Relevant amending instruments are [S.I. 2002/3135](#), [2006/1914](#) and [2007/1043](#).

(13) The definition of “the Directive” was inserted by [S.I. 2007/3101](#).

- (ii) after the definition of “previous legislation”, there were inserted—
  - ““qualifying Swiss applicant” has the meaning given in paragraph 67A(6) of Schedule 1 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.”;
- (b) article 4 is to be read as if—
  - (i) in paragraph (1)—
    - (aa) for “exempt persons” there were substituted “qualifying Swiss applicants”;
    - (bb) the words “other than the United Kingdom” were omitted;
  - (ii) in paragraph (4), “Subject to paragraph (5),” were omitted;
  - (iii) paragraph (5) were omitted;
  - (iv) for paragraph (6)(a), there were substituted—
    - “(a) is a qualifying Swiss applicant who holds a qualification in general practice which was granted otherwise than in a relevant European State but has been recognised by a competent authority in Switzerland pursuant to Article 2(2) of the Directive as qualifying that person to practise as a general practitioner in Switzerland; or”;
- (c) article 5(14) is to be read as if—
  - (i) the existing paragraph were paragraph (1) and in that paragraph, in the words before sub-paragraph (a), for “A person” there were substituted “A qualifying Swiss applicant”;
  - (ii) after paragraph (1), there were inserted—
    - “(2) In this article, any reference to “the General Systems Regulations” is a reference to those Regulations 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 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019).”;
- (d) article 8 is to be read as if—
  - (i) in paragraph (1)—
    - (aa) for “exempt persons” there were substituted “qualifying Swiss applicants”;
    - (bb) “outside the United Kingdom” were omitted;
  - (ii) in paragraphs (2) and (3)—
    - (aa) “Subject to paragraph (4),” were omitted;
    - (bb) for “a person” there were substituted “A person”;
  - (iii) paragraph (4) were omitted;
  - (iv) for paragraph (5)(a), there were substituted—
    - “(a) is a qualifying Swiss applicant who holds a specialist qualification which was granted otherwise than in a relevant European State but has been recognised by a competent authority in Switzerland pursuant to Article 2(2) of the Directive, as qualifying that person to practise as a specialist in Switzerland; or”;

- (e) in article 10(15), the words “other than the United Kingdom” were omitted in each place where they occur.
- (6) In this paragraph—
- “the 1983 Act” means the Medical Act 1983(16);
- “the 2010 Order” means the Postgraduate Medical Education and Training Order of Council 2010(17);
- “qualifying Swiss applicant” means a Swiss applicant (“A”)—
- (a) who holds a relevant qualification (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019),
  - (b) who had not, before IP completion day, applied for registration under section 3, 14A, 19, 19A or 21B of the 1983 Act, or to be provisionally registered under that Act, and
  - (c) if A falls within paragraph (a) of the definition of “Swiss applicant” and only holds relevant qualifications obtained in EEA States, is established in Switzerland.”
- (4) Paragraph 68 is amended as follows—
- (a) in the heading, for “one year” substitute “five years”;
  - (b) in sub-paragraph (1), in the words following paragraph (b), after “States”, insert “(but subject to the modifications to Schedule 2A to that Act(18) specified in sub-paragraph (4))”;
  - (c) in sub-paragraphs (1) and (2), for “exit day” substitute “IP completion day”.
  - (d) after sub-paragraph (2), insert—
    - “(2A) Sub-paragraph (2) does not apply in the case of a Swiss visiting practitioner.
    - (2B) But a Swiss visiting practitioner’s entitlement does not continue (or further continue) under paragraph 7 of Schedule 2A to the Medical Act 1983 after the end of the visiting practitioner transitional period (and, accordingly, the entitlement lapses at the end of the period mentioned in paragraph 8(1) or (2) of that Schedule).
    - (2C) In this paragraph, “Swiss visiting practitioner” means a visiting practitioner who—
      - (a) is a national of the United Kingdom or a Swiss national, or
      - (b) is a third country national, who was, immediately before IP completion day, by virtue of an enforceable EU right entitled to be treated, for the purposes of access to and pursuit of a regulated profession, no less favourably than a United Kingdom or Swiss national.”;
  - (e) in the table following paragraph (3), in the list of provisions of the Medical Act 1983 in the second column, after the entry for “Schedule 2A”, insert “Schedule 3, paragraph 7”;
  - (f) after sub-paragraph (3), insert—
    - “(4) The modifications to Schedule 2A to the Medical Act 1983 mentioned in sub-paragraph (1) are—
      - (a) paragraph 1 (application and interpretation) is to be read as if for that paragraph there were substituted—

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(15) Article 10 was amended by S.I. 2013/3036 and 2016/1030.

(16) 1983 c. 54.

(17) S.I. 2010/473. Relevant amending instrument is S.I. 2016/1030.

(18) Schedule 2A to the Medical Act 1983 was inserted by S.I. 2007/3101 and amended by S.I. 2016/1030.

- (1) This Schedule applies to a Swiss visiting practitioner who is lawfully established in medical practice in Switzerland.
- (2) In this Schedule, “Swiss visiting practitioner” has the meaning given in paragraph 68(2C) of Schedule 1 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.”;
- (b) paragraph 2 is to be read as if —
- (i) before paragraph (a) there were inserted—
- “(za) an “existing contract” means a written contract which was concluded, and the performance of which started, before IP completion day.”;
- (ii) in paragraph (a), for “an exempt person” there were substituted “a Swiss visiting practitioner”;
- (iii) in paragraph (b), for the words from “the relevant” to the end there were substituted “Switzerland”;
- (iv) in paragraph (c), after “basis” there were inserted—
- “—
- (i) on the basis of one or more existing contracts, and
- (ii) for a period not exceeding 90 days in total in any calendar year”;
- (c) paragraph 5(2) is to be read as if—
- (aa) in paragraph (b), for “a relevant European State” there were substituted “the United Kingdom or Switzerland”;
- (bb) in paragraph (c), for the words from “a relevant European State” to the end, there were substituted “the United Kingdom or Switzerland, proof of the enforceable EU right by virtue of which the practitioner is a Swiss visiting practitioner”;
- (d) paragraph 7 is to be read as if—
- (i) sub-paragraphs (3) and (4) were omitted;
- (ii) after sub-paragraph (6)(a), there were inserted—
- “(aa) contains details of the existing contract or contracts on the basis of which the occasional medical services will continue to be provided;
- (ab) if the practitioner is a national of the United Kingdom or Switzerland, contains proof of nationality;
- (ac) if the practitioner is not a national of the United Kingdom or Switzerland, contains proof of the enforceable EU right by virtue of which the practitioner is a Swiss visiting practitioner.”;
- (e) paragraph 8(7) (duration of entitlement to provide occasional medical services) is to be read as if, for paragraph (b), there were substituted—
- “(b) (i) immediately before the time when the suspension or (as the case may be) erasure takes effect, the practitioner is entitled under this Schedule to provide occasional medical services, or

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- (ii) the existing contract, or last of the existing contracts, on the basis of which the visiting practitioner was providing occasional medical services, is terminated or otherwise expires,””.