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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 Schedule 2 (pharmacists and pharmacy technicians)**

**10.**—(1) Schedule 2 is amended as follows.

(2) In paragraph 8—

(a) after “(interpretation)”, insert “, in sub-paragraph (1)”;

(b) in sub-paragraph (a), for “exit day” substitute “IP completion day”.

(3) In paragraphs 10 and 44, in each place it occurs, for “exit day” substitute “IP completion day”.

(4) After paragraph 44 insert—

*“Swiss pharmacists qualifying outside the United Kingdom: saving of old law*

(1) Where an application for registration in Part 1 of the Register is received from a qualifying Swiss applicant before the end of the Swiss recognition period, any provision made by an instrument amended by Part 1 of this Schedule 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 2010 Order<sup>(1)</sup> and the General Pharmaceutical Council (Registration) Rules 2010<sup>(2)</sup> specified in sub-paragraphs (3) and (4)).

(2) The reference in sub-paragraph (1) to “the establishment provisions” is a reference to the provisions of the following enactments—

(a) the 2010 Order, other than articles 19(2)(d) and (e), 32(11), 33, 33A, 36(3), 39(1)(c) and (e), 66(2) and 71, and Schedule 2A;

(b) the Approved European Pharmacy Qualifications Order of Council 2007<sup>(3)</sup>;

(c) the General Pharmaceutical Council (Registration) Rules 2010;

(d) the Pharmacy Order 2010 (Approved European Pharmacy Qualifications) Order 2010<sup>(4)</sup>.

(3) The modifications to the 2010 Order mentioned in sub-paragraph (1) are—

(a) article 3(1)<sup>(5)</sup> is to be read as if—

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(1) “The 2010 Order” is defined in paragraph 1 of Schedule 2.

(2) As set out in the Schedule to the General Pharmaceutical Council (Registration Rules) Order of Council 2010 (S.I. 2010/1617). Relevant amending instruments are S.I. 2010/2660, 2012/3171, 2016/1008 and 2016/1030.

(3) S.I. 2007/564.

(4) S.I. 2010/1620.

(5) The definition of “the Directive” was inserted by S.I. 2016/1030.

- (i) in the definitions of “the Directive” and “[Directive 2002/58/EC](#)”, for “as amended from time to time” there were substituted “as it had effect immediately before IP completion day”;
- (ii) in the definition of “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 given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”;
- (iii) there were inserted at the appropriate place—
  - ““qualifying Swiss applicant” has the meaning given in paragraph 44A(5) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019;”;
- (iv) for the definition of “third country”, there were substituted—
  - ““third country” has the same meaning as in regulation 2(1) of the 2007 Regulations.”;
- (b) article 20(4) is to be read as if, for sub-paragraph (a), there were substituted—
  - “(a) is a qualifying Swiss applicant who has qualified as a pharmacist in a relevant European State;”;
- (c) article 21(6) is to be read as if—
  - (i) in paragraph (1), in sub-paragraphs (b) and (c), for “an exempt person”, there were substituted “a qualifying Swiss applicant”;
  - (ii) in paragraph (1), in sub-paragraph (d)—
    - (aa) in the words before paragraph (i), “subject to paragraph (2)” were omitted;
    - (bb) in paragraph (ii)(aa), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (cc) in paragraph (ii)(bb), “whether or not P is an exempt person” were omitted;
  - (iii) paragraphs (2), and (4)(b) were omitted, and the “and” at the end of paragraph (4) (a) were omitted;
  - (iv) in paragraph (5)—
    - (aa) in the words before sub-paragraph (a), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (bb) in sub-paragraph (a), for “another relevant European State” there were substituted “a competent authority in Switzerland, pursuant to Article 2(2) of the Directive”;
- (d) in article 23(7)—
  - (i) paragraph (1)(c) is to be read as if—
    - (aa) paragraph (iii) were omitted;
    - (bb) in paragraph (iv), in the words before sub-paragraph (aa) and in sub-paragraph (bb), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (cc) in paragraph (iv)(aa) and (bb), for “a relevant European State” there were substituted “the United Kingdom or Switzerland”;

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(6) Relevant amending instruments are [S.I. 2015/806](#) and [2016/1030](#).

(7) Article 23 was amended by [S.I. 2016/1030](#).

- (dd) in paragraph (vi), for “an exempt person” there were substituted “a qualifying Swiss applicant”, and for “a relevant European State” there were substituted “Switzerland”;
  - (ii) paragraph (4) is to be read as if for “an exempt person” there were substituted “a qualifying Swiss applicant”;
  - (iii) paragraph (9) is to be read as if for the words from “in relation” to the end, there were substituted “in relation to a qualifying Swiss applicant, means Switzerland”;
  - (e) article 23A(7)(8) is to be read as if for “an exempt person” there were substituted “a qualifying Swiss applicant”;
  - (f) article 36(1) is to be read as if for “Subject to paragraph (3), the” there were substituted “The”.
- (4) The modifications to the General Pharmaceutical Council (Registration) Rules 2010 mentioned in sub-paragraph (1) are—
- (a) rule 2 is to be read as if after the definition of “prescribed fee”, there were inserted—
    - ““qualifying Swiss applicant” has the meaning given in paragraph 44A(5) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019;”;
  - (b) rule 10 is to be read as if—
    - (i) in paragraph (3)(e)—
      - (aa) in the words before paragraph (i), for “an exempt person within the meaning given in article 3(1) of the Order” there were substituted “a qualifying Swiss applicant”;
      - (bb) in paragraphs (i) and (ii), for “a relevant European State”, in each place it occurs, there were substituted “the United Kingdom or Switzerland”;
      - (cc) in paragraph (ii), for “Community right by virtue of which the applicant is an exempt person” there were substituted “enforceable EU right by virtue of which the applicant is a qualifying Swiss applicant”;
    - (ii) in paragraph (3)(f), for “a relevant European State”, in each place it occurs, there were substituted “the United Kingdom or Switzerland”;
    - (iii) in paragraph (3)(h), in the words before paragraph (i), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (iv) in paragraph (3)(i), in the words before paragraph (i), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
    - (v) in paragraph (3)(j), in paragraphs (i) and (ii), for “an exempt person”, in each place it occurs, there were substituted “a qualifying Swiss applicant”;
    - (vi) in paragraph (3)(k)—
      - (aa) in paragraph (i), for “an exempt person” there were substituted “a qualifying Swiss applicant”;
      - (bb) in paragraph (ii), “, whether or not the applicant is an exempt person,” were omitted;
    - (vii) paragraph (3ZA) were omitted;
    - (viii) in paragraph (12), for the definition of “attesting State” there were substituted—
      - ““attesting State” means Switzerland;”.

(5) For the purposes of this paragraph—

“qualifying Swiss applicant” means a qualifying applicant who had not, before IP completion day, made a registration application (other than an application for registration under Schedule 2 to the 2010 Order);

“the Register” has the meaning given in article 3(1) of the 2010 Order, as it had effect immediately before IP completion day.

*Swiss pharmacy technicians qualifying outside the United Kingdom: saving of old law*

(1) Where an application for registration in Part 2 of the Register is received from a Swiss pharmacy technician before the end of the Swiss recognition period, any provision made by an instrument amended by Part 1 of this Schedule 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 2010 Order and the General Pharmaceutical Council (Registration) Rules 2010 specified in sub-paragraphs (3) and (4)).

(2) The reference in sub-paragraph (1) to “the establishment provisions” is a reference to the provisions of the following enactments—

(a) the 2010 Order, other than articles 19(2)(d) and (e), 32(11), 33, 36(1) and (3), 39(1)(c) and (e), and 66(2);

(b) the General Pharmaceutical Council (Registration) Rules 2010.

(3) The modifications to the 2010 Order mentioned in sub-paragraph (1) are—

(a) article 3(1) is to be read as if—

(i) in the definitions of “the Directive” and “[Directive 2002/58/EC](#)”, for “as amended from time to time” there were substituted “as it had effect immediately before IP completion day”;

(ii) in the definition of “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 given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”;

(iii) there were inserted at the appropriate place—

““Swiss pharmacy technician” has the meaning given in paragraph 44B(5) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019;”;

(iv) for the definition of “third country”, there were substituted—

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

(b) article 22 is to be read as if—

(i) in paragraph (1)(b), for “an exempt person” there were substituted “a Swiss pharmacy technician”;

(ii) in paragraph (1)(c)—

(aa) in paragraph (ii)(aa), for “an exempt person” there were substituted “a Swiss pharmacy technician”;

(bb) in paragraph (ii)(bb), “whether or not T is an exempt person,” were omitted;

(iii) in paragraph (2)—

(aa) in the words before sub-paragraph (a), for “exempt person” there were substituted “Swiss pharmacy technician”;

- (bb) in sub-paragraph (b), after “the Directive” there were inserted “as they had effect immediately before IP completion day”;
  - (iv) in paragraph (3)—
    - (aa) in the words before sub-paragraph (a) for “an exempt person” there were substituted “a Swiss pharmacy technician”;
    - (bb) in sub-paragraph (a), for “another relevant European State” there were substituted “a competent authority in Switzerland pursuant to Article 2(2) of the Directive”;
  - (c) article 23(1) is to be read as if in sub-paragraph (c)—
    - (i) paragraph (iii) were omitted;
    - (ii) in paragraph (iv)—
      - (aa) in the words before sub-paragraph (aa) and in sub-paragraph (bb), for “an exempt person” there were substituted “a Swiss pharmacy technician”;
      - (aa) in sub-paragraphs (aa) and (bb), for “a relevant European State” there were substituted “the United Kingdom or Switzerland”;
    - (iii) in paragraph (vi)—
      - (aa) for “an exempt person” there were substituted “a Swiss pharmacy technician”;
      - (bb) for “a relevant European State” there were substituted “Switzerland”;
  - (d) article 23(4) is to be read as if for “an exempt person” there were substituted “a Swiss pharmacy technician”;
  - (e) article 23(9) is to be read as if for the words from “in relation” to the end, there were substituted “in relation to a Swiss pharmacy technician, means Switzerland”;
  - (f) article 23A(7) is to be read as if for “an exempt person” there were substituted “a Swiss pharmacy technician”;
  - (g) article 36(1) is to be read as if for “Subject to paragraph (3), the” there were substituted “The”.
- (4) The modifications to the General Pharmaceutical Council (Registration) Rules 2010 mentioned in sub-paragraph (1) are—
- (a) rule 2 is to be read as if after the definition of “prescribed fee” there were inserted—

““Swiss pharmacy technician” has the meaning given in paragraph 44B(5) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019;”;
  - (b) rule 10 is to be read as if—
    - (i) in paragraph (3)(e)—
      - (aa) in the words before paragraph (i), for “an exempt person within the meaning given in article 3(1) of the Order” there were substituted “a Swiss pharmacy technician”;
      - (bb) in paragraphs (i) and (ii), for “a relevant European State”, in each place it occurs, there were substituted “the United Kingdom or Switzerland”;
      - (cc) in paragraph (ii), for “Community right by virtue of which the applicant is an exempt person” there were substituted “enforceable EU right by virtue of which the applicant is a Swiss pharmacy technician”;

- (ii) in paragraph (3)(f), for “a relevant European State”, in each place it occurs, there were substituted “the United Kingdom or Switzerland”;
  - (iii) in paragraph (3)(h), in the words before paragraph (i), for “an exempt person” there were substituted “a Swiss pharmacy technician”;
  - (iv) in paragraph (3)(i), in the words before paragraph (i), for “an exempt person” there were substituted “a Swiss pharmacy technician”;
  - (v) in paragraph (3)(j), in paragraphs (i) and (ii), for “an exempt person” there were substituted “a Swiss pharmacy technician”;
  - (vi) in paragraph (3)(k)—
    - (aa) in paragraph (i), for “an exempt person” there were substituted “a Swiss pharmacy technician”;
    - (bb) in paragraph (ii) “, whether or not the applicant is an exempt person,” were omitted;
  - (vii) paragraph (3ZA) were omitted;
  - (viii) in paragraph (12), for the definition of “attesting State” there were substituted—
    - ““attesting State” means Switzerland.”.
- (5) For the purposes of this paragraph—
- “the Register” has the meaning given in article 3(1) of the 2010 Order, as it had effect immediately before IP completion day;
  - “Swiss pharmacy technician” means a qualifying applicant who had not, before IP completion day, made a registration application.”.
- (5) In paragraph 45—
- (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, in the case of a Swiss visiting practitioner, to the modifications to the 2010 Order specified in sub-paragraph (4))”;
  - (c) 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 6 or 14 of Schedule 2 to the 2010 Order after the end of the visiting practitioner transitional period (and, accordingly, the entitlement lapses at the end of—
      - (a) in the case of a pharmacist, the period mentioned in paragraph 7(1) or (2) of that Schedule;
      - (b) in the case of a pharmacy technician, the period mentioned in paragraph 15(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 Switzerland, or
      - (b) a third country national, who was, immediately before IP completion day, entitled by virtue of an enforceable EU right to be treated, for the purposes of access to and pursuit of the profession of pharmacist or pharmacy technician, no less favourably than a national of the United Kingdom or Switzerland.”;
  - (d) after the table in sub-paragraph (3) insert—

- “(4) The modifications to the 2010 Order mentioned in sub-paragraph (1) are—
- (a) article 3(1) is to be read as if in the definition of “competent authority” for “a relevant European State” there were substituted “Switzerland”;
  - (b) article 43(9) is to be read as if, for the words from “the relevant” to the end, there were substituted “Switzerland”;
  - (c) Part 1 of Schedule 2 is to be read as if—
    - (i) for paragraph 1(1), there were substituted—

“(1) This Part of this Schedule applies to a Swiss visiting practitioner who is lawfully established as a pharmacist in Switzerland.”;
    - (ii) in paragraph 1(2)—
      - (aa) before paragraph (a), there were inserted—
        - “(za) an “existing contract” means a written contract which was concluded, and performance of which started, before IP completion day;
        - (zb) “Swiss visiting practitioner” has the meaning given in paragraph 45(2C) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019;”;
      - (bb) in paragraph (a), for “an exempt person” there were substituted “a Swiss visiting practitioner”;
      - (cc) in paragraph (b), for the words from “the relevant” to the end, there were substituted “Switzerland”;
      - (dd) 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.”;
    - (iii) in paragraph 4(2)—
      - (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”;
    - (iv) in paragraph 6—
      - (aa) sub-paragraphs (3) and (4) were omitted;
      - (bb) in sub-paragraph (6), after paragraph (a), there were inserted—
        - “(aa) contains details of the existing contract or contracts on the basis of which the occasional pharmacy 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.”;
- (v) paragraph 7(7) is to be read as if, for paragraph (b), there were substituted—
- “(b) (i) immediately before the time when the supervision or, as the case may be, removal takes effect, the practitioner is entitled under this Part to provide occasional pharmacy services, or
- (ii) the existing contract, or last of the existing contracts, on the basis of which the visiting practitioner was providing occasional pharmacy services, is terminated or otherwise expires.”;
- (d) Part 2 of Schedule 2 is to be read as if—
- (i) in paragraph 9(1), for the words from “an exempt person” to the end, there were substituted “a Swiss visiting practitioner who is lawfully established as a pharmacy technician in Switzerland”;
- (ii) in paragraph 9(2)—
- (aa) before paragraph (a) there were inserted—
- “(za) an “existing contract” means a written contract which was concluded, and performance of which started, before IP completion day;
- (zb) “Swiss visiting practitioner” has the meaning given in paragraph 45(2C) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.”;
- (bb) in paragraph (a), for “an exempt person” there were substituted “a Swiss visiting practitioner”;
- (cc) in paragraph (b), for the words from “the relevant” to the end, there were substituted “Switzerland”;
- (dd) 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.”;
- (iii) in paragraph 12(2)—
- (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”;
- (iv) in paragraph 14—
- (aa) sub-paragraphs (3) and (4) were omitted;
- (bb) in sub-paragraph (6), after paragraph (a), there were inserted—



- “(aa) contains details of the existing contract or contracts on the basis of which the occasional pharmacy 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;”;
- (v) in paragraph 15(6), after paragraph (a), there were inserted—
- “(aa) ceases to have a valid contract to provide occasional pharmacy services, because the existing contract, or last of the existing contracts, on the basis of which the visiting practitioner was providing occasional pharmacy services, is terminated or otherwise expires; or”.”.
- (6) In paragraphs 45(1) and (2), 46(1), (3)(a) and (b), 47(1), 48(1) and (2)(b)(ii), and 49(1), in each place it occurs, for “exit day” substitute “IP completion day”.
- (7) In paragraph 50—
- (a) in sub-paragraph (a)(i), (ii), (iii) and (iv), in each place it occurs, for “exit day” substitute “IP completion day”;
  - (b) in sub-paragraph (a)(iv)—
    - (i) after ““General Systems Regulations””, insert “(other than that definition as it continues to apply by virtue of paragraph 44A or 44B of this Part)”;
    - (ii) for “after “2015””, substitute “at the end”.