
STATUTORY INSTRUMENTS

2020 No. 1394

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

PART 3

**Amendments to the European Qualifications (Pharmacists)
(Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2019**

**Amendments to the European Qualifications (Pharmacists) (Amendment etc.) (EU Exit)
Regulations (Northern Ireland) 2019**

20.—(1) The European Qualifications (Pharmacists) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2019(1) are amended as follows.

(2) After regulation 1 insert—

“Interpretation: general

1A. In these Regulations—

“the 2007 Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007;

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

“the Council” means the Council of the Pharmaceutical Society of Northern Ireland;

“relevant applicant” means an individual—

- (a) who provides services in a regulated profession 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, the services mentioned in paragraph (a), either—
 - (i) before IP completion day, in an employed or self-employed capacity, or
 - (ii) on or after IP completion day, as an employee posted for the purpose of carrying on professional activities in the United Kingdom by their employer who is established in the United Kingdom or Switzerland,
- (c) who is a national of the United Kingdom or Switzerland, or 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 pursuit of a regulated profession,

- (d) who is legally established in Switzerland for the purpose of pursuing the same profession there, and
- (e) who, if neither the regulated profession the individual 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 two years during the ten years preceding the provision of services;

“same profession” means the profession for which the applicant is qualified in the applicant’s home State if the activities covered are comparable;

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

- (3) After regulation 2 insert—

“Administrative cooperation under the EEA EFTA citizens’ rights agreement

2A.—(1) Where an individual has, before IP completion day, made an application falling under Article 26 of the EEA EFTA citizens’ rights agreement to a competent authority in Iceland, Norway or Liechtenstein for recognition of a professional qualification awarded or recognised by a competent authority in Northern Ireland, the Council must—

- (a) co-operate with the competent authority or assistance centre in Iceland, Norway or Liechtenstein, or with the individual (as the case may be), in accordance with—
 - (i) Schedule 2D to the Pharmacy (Northern Ireland) Order 1976(2), as it had effect immediately before IP completion day;
 - (ii) regulation 5(2) to (5) of the 2015 Regulations;
- (b) provide information to the competent authority in Iceland, Liechtenstein or Norway regarding disciplinary action or criminal sanctions taken, or any other serious, specific circumstances which are likely to have consequences for the pursuit of professional activities by that individual.

(2) The Council must process information for the purposes of paragraph (1) in accordance with data protection legislation within the meaning of section 3(9) (terms relating to the processing of personal data) of the Data Protection Act 2018.

(3) In this regulation, “EEA EFTA citizens’ rights agreement” means the Agreement signed at London on 2 April 2019 between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland on arrangements regarding citizens’ rights following the withdrawal of the United Kingdom from the European Union and the EEA Agreement.

Equal treatment and administrative co-operation under the Swiss citizen’s rights agreement

2B.—(1) In dealing with a relevant applicant who provides services in the United Kingdom pursuant to paragraph 30 of the Schedule in relation to any matter, the Council must treat that person no less favourably than it would treat a native applicant (within the meaning given in regulation 2 of the 2007 Regulations) providing services in Northern Ireland in relation to that matter.

(2) Where an individual is providing services as a pharmacist on a temporary and occasional basis in Switzerland pursuant to Article 23 of the Swiss citizens’ rights agreement, the Council must co-operate with and provide the competent authority in Switzerland with any information relevant to the

(2) S.I. 1976/1213 (N.I. 22). Schedule 2D was inserted by S.I. 2016/1030.

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 paragraph 3 of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976, as it applied immediately before IP completion day, or regulation 5(2), (3) and (4) of the 2007 Regulations (as the case may be).

(3) Where an individual 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 a competent authority in the United Kingdom, the Council must—

- (a) co-operate with the Swiss competent authority or contact point in Switzerland, or the individual (as the case may be), in accordance with Schedule 2D to the Pharmacy (Northern Ireland) Order 1976, as it applied immediately before IP completion day, or regulation 5(2), (5) and (6) of the 2007 Regulations (as the case may be), and
- (b) provide information to the competent authority in Switzerland regarding disciplinary action or criminal sanctions taken, or any other serious, specific circumstances which are likely to have consequences for the pursuit of professional activities by that individual.

(4) The Council must process information for the purposes of paragraphs (2) and (3) in accordance with data protection legislation within the meaning given in section 3(9) (terms relating to the processing of personal data) of the Data Protection Act 2018.

(5) In this paragraph, "competent authority", in relation to Switzerland, has the meaning given in regulation 2(1) of the 2015 Regulations, as it had effect immediately before IP completion day."

(4) In regulation 3(1)(a), for "exit day" substitute "IP completion day".

(5) In Part 1 of the Schedule, in paragraph 8, for "exit day" substitute "IP completion day".

(6) In Part 2 of the Schedule, in paragraph 25, after "of" insert "the".

(7) In Part 3 of the Schedule—

- (a) in paragraph 29, for "exit day" substitute "IP completion day";
- (b) after paragraph 29, insert—

"Swiss pharmacists: saving of old law

29A.—(1) Where an application for registration in the register mentioned in Article 6(1)(a) of the 1976 Order is received from a Swiss pharmacist before the end of the period of four years beginning with the day immediately after IP completion day, any provision made by or under the 1976 Order⁽³⁾ (except for the provision contained in Schedule 2C to the Order) continues to apply in relation to the application without the amendments Parts 1 and 2 of this Schedule make to the provisions mentioned in sub-paragraph (3) (but subject to the modifications to the 1976 Order and the Registration Regulations specified in sub-paragraphs (4) and (5)).

(2) For the purposes of this paragraph, "Swiss pharmacist" means a qualifying applicant (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019) who had not, before IP completion day, made an application in the register mentioned in Article 6(1) (a) of the 1976 Order.

(3) The provisions mentioned in sub-paragraph (1) are—

- (a) in the 1976 Order⁽⁴⁾—

(3) "The 1976 Order" is defined in paragraph 1 of the Schedule.

(4) Relevant amendments are made to Article 8 by [S.R. 2008/192](#), [S.I. 2015/806](#) and [S.I. 2016/1030](#). Article 8A was inserted by [S.R. 1987/457](#). Article 8AA was inserted by [S.I. 2015/806](#). Article 8C was inserted by [S.I. 2016/1030](#). Relevant amendments to Article 11 were made by [S.R. 2008/192](#). Article 11ZA was inserted by [S.I. 2015/806](#). In Article 14, paragraph (2A) was

- (i) in Article 2(2), the definitions of “competent authorities”, “the Directive”, “General Systems Regulations”, and “relevant European State”,
 - (ii) Article 8,
 - (iii) Article 8A,
 - (iv) Article 8AA,
 - (v) Article 8C,
 - (vi) Article 11,
 - (vii) Article 11ZA,
 - (viii) Article 14(2A),
 - (ix) Schedule 2A;
 - (b) Article 63AA(3)(c) of the Health and Personal Social Services (Northern Ireland) Order 1972(5);
 - (c) the European Qualifications (Pharmacy) Regulations (Northern Ireland) 2008(6);
 - (d) the Registration Regulations 2008.
- (4) The modifications to the 1976 Order mentioned in sub-paragraph (1) are—
- (a) Article 2(2) is to have effect as if at the end of the definition of “General Systems Regulations” 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)”;
 - (b) Article 8(2)(c) is to have effect as if, in the words before paragraph (i), the reference to an exempt person were a reference to a Swiss pharmacist within the meaning given in this paragraph of this Schedule;
 - (c) Article 8AA(7) is to have effect as if the reference to an exempt person were a reference to a Swiss pharmacist within the meaning given in this paragraph of this Schedule;
- (5) The modifications to the Registration Regulations mentioned in sub-paragraph (1) are that regulation 2 is to have effect as if—
- (a) in paragraph (1) for “an exempt person” there were substituted “a Swiss pharmacist (within the meaning given in paragraph 29A of the Schedule to the European Qualifications (Pharmacists) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2019)”;
 - (b) for paragraph (2), there were substituted—
 - “(2) Proof that E is a national of the United Kingdom or Switzerland or (where E is not a national of the United Kingdom or Switzerland) proof of the enforceable EU right by virtue of which E is a Swiss pharmacist.”;
 - (c) any reference in paragraphs (3) to (6) to “E’s attesting State” were a reference to Switzerland.

inserted by S.R. 1987/457 and relevant amendments were made to it by S.R. 2008/192. Schedule 2A was inserted by S.R. 2008/192.

- (5) S.I. 1972/1265 (N.I. 14). Article 63AA was inserted by the Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 c. 2 (N.I.).
- (6) S.R. 2008/192.

(6) In this paragraph, “the Registration Regulations” means the Registration of Pharmaceutical Chemists (Exempt Persons) Regulations (Northern Ireland) 2008(7).”;

(c) in paragraph 30—

- (i) in the heading, for “one year” substitute “five years”;
- (ii) 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 1976 Order specified in sub-paragraph (4))”;
- (iii) in sub-paragraphs (1) and (2), for “exit day” substitute “IP completion day”;
- (iv) 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 2B to the 1976 Order 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 is—

- (a) a national of the United Kingdom,
- (b) a national of Switzerland, or
- (c) 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 particular profession, no less favourably than a national of either of those states;

“visiting practitioner transitional period” means—

- (a) the period of five years beginning with IP completion day, or
- (b) if the period in paragraph (a) is extended in accordance with Article 23(2) of the Swiss citizens’ rights agreement, that period as extended.”;

(v) after sub-paragraph (3), insert—

“(4) The modifications to the 1976 Order(8) mentioned in sub-paragraph (1) are—

- (a) Article 2(2) is to be read as if, in the definition of “competent authorities” for “a relevant European State” there were substituted “Switzerland”;
- (b) Article 4A(14) is to be read as if for the words from “the relevant” to the end there were substituted “Switzerland”;
- (c) Schedule 2B is to be read as if—
 - (i) for paragraph 1, there were substituted—

“1. This Schedule applies to a Swiss visiting practitioner (within the meaning given in paragraph 30(2C) of the Schedule to the European Qualifications (Pharmacists) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2019) who is lawfully established as a pharmacist in Switzerland.”;

(ii) in paragraph 2—

(7) [S.R. 2008/193](#).

(8) Article 4A was inserted by [S.R. 2012/308](#). Schedule 2B was inserted by [S.R. 2008/192](#).

- (aa) before sub-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;”;
- (bb) in sub-paragraph (a), for “an exempt person” there were substituted “a Swiss visiting practitioner”;
- (cc) in sub-paragraph (b), for the words from “the relevant” to the end, there were substituted “Switzerland”;
- (dd) in sub-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 5(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 7(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;”, and
- (v) in paragraph 8(5), after paragraph (a), there were inserted—
 - “(aa) 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”.”;
- (d) in paragraphs 31(1) and (3), 32(1), 33(1) and (2)(c), 34(1) and 35(a), in each place it occurs, for “exit day” substitute “IP completion day”.