

## STATUTORY INSTRUMENTS

# 2019 No. 717

## The Architects Act 1997 (Amendment) (EU Exit) Regulations 2019

### [<sup>F1</sup>PART 3

#### Transitional and saving provision under the withdrawal agreement and the EEA EFTA separation agreement

##### Textual Amendments

- F1** Pts. 3, 4 substituted for Pt. 3 (31.12.2020 immediately before IP completion day) by [The Professional Qualifications and Services \(Amendments and Miscellaneous Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1038\)](#), reg. 1(3), **Sch. 3 para. 4**

##### Part 2 of the Register

**22.**—(1) This regulation applies where, before exit day, a visiting practitioner is entitled under paragraph 3 of Schedule 1A to the 1997 Act, or continues to be entitled under paragraph 4 of that Schedule, to be registered in Part 2 of the Register, and, on IP completion day, has not lost entitlement to provide services.

(2) Any provision made by or under the 1997 Act relating to the provision of services on a temporary and occasional basis continues to apply in relation to the registration (including any appeal arising from it) without the amendments made by Part 2 of these Regulations, but subject to the modification specified in paragraph (3), on and after IP completion day in relation to the provision of services on a temporary and occasional basis by the visiting practitioner, until the earlier of the following—

- (a) the day on which an entitlement under paragraph 3 or 4(4) of Schedule 1A to the 1997 Act ceases under paragraph 5 of Schedule 1A to the 1997 Act; or
- (b) 30th January 2021.

(3) Any reference to a “relevant European State” in Schedule 1A to the 1997 Act has effect as if that reference includes the United Kingdom.

##### Commencement Information

- I1** Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

##### Pending applications

**23.**—(1) This regulation applies where—

- (a) before IP completion day, an applicant has made an application for registration under section 4(2A) of the 1997 Act to the Board; and
  - (b) the application has not been finally determined before IP completion day.
- (2) For the purposes of sub-paragraph (1), an application is finally determined when—
- (a) the Board has notified the applicant of its decision; and
  - (b) either—
    - (i) the period for appeal against that decision under section 22 of the 1997 Act has expired without an appeal being made; or
    - (ii) any such appeal has been determined or withdrawn.
- (3) The provisions of the 1997 Act continue to apply in relation to the application referred to in paragraph (1) without the amendments made by Part 2 of these Regulations but subject to the modifications specified in regulation 24 in relation to—
- (a) the application concerned; and
  - (b) an appeal made under section 22 of the 1997 Act against a decision made under that Act in relation to that application.

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**Commencement Information**

- I2** Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**24.—**(1) The modifications to the 1997 Act referred to in regulation 23(3) are as set out in the following paragraphs.

(2) Section 5E(2) (complaints by recipients of services) of the 1997 Act has effect as if after “correctly pursued” there were inserted “in accordance with data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018”.

(3) Section 22C (confidentiality) of the 1997 Act has effect as if—

- (a) in subsection (2)—
  - (i) paragraph (b) (but not the final “and”) were omitted;
  - (ii) in paragraph (c)(ii), for “by a Directive-rights national” there were substituted “in reliance on section 4(2A)”;
- (b) in subsection (4), for the words from “which,” to the end there were substituted “which in the course of the carrying out of the authority’s functions under section 4 or 4A is disclosed by or on behalf of the authority to a competent authority of a relevant European State.”.

(4) Section 25 (interpretation) of the 1997 Act has effect as if the definition of “relevant European State” includes the United Kingdom.

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**Commencement Information**

- I3** Reg. 24 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

## Administrative cooperation under the withdrawal agreement and the EEA EFTA separation agreement

**25.**—(1) The modifications to the 1997 Act in regulations 26 and 27 apply where an individual has, before IP completion day, made an application falling under Article 28 of the withdrawal agreement or Article 27 of the EEA EFTA separation agreement to a competent authority in a European State for recognition of a professional qualification awarded or recognised by the Board.

(2) In this regulation—

“competent authority” has the meaning given by regulation 2(1) of the 2015 Regulations; and

“European State” means an EEA State other than the United Kingdom.

### Commencement Information

**I4** Reg. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**26.** Section 5D(1) (administrative co-operation with other relevant European States) of the 1997 Act has effect as if after “that person’s establishment” there were inserted “as an architect”.

### Commencement Information

**I5** Reg. 26 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**27.** Section 22B (administrative co-operation) of the 1997 Act has effect as if—

(a) for subsections (1) and (2) there were substituted—

“(1) The Board must, for the purposes of facilitating the recognition of the qualifications of architects—

(a) collaborate with competent authorities of relevant European States, and

(b) provide assistance to competent authorities of relevant European States in order to facilitate the accreditation in a relevant European State of registered persons or persons holding qualifications or experience prescribed under section 4(1)(a).

(2) The Board must exchange professional-regulation information about persons who have made an application for registration under section 4(2A) with competent authorities of relevant European States in accordance with data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018 and through use of the IMI procedure where appropriate, in accordance with Article 29(2) of the withdrawal agreement.”;

(b) in subsection (4) in the words before paragraph (a)—

(i) for “another” there were substituted “a”;

(ii) after “European State” there were inserted “or a person who applies for registration”.

### Commencement Information

**I6** Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

## Interpretation of saved provisions

28. Where a provision of the 1997 Act continues to apply by virtue of this Part, that provision has effect with the modifications in regulations 29 to 32.

### Commencement Information

**I7** Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

29. Section 25 (interpretation) has effect as if—

(a) for the definition of “the Directive” there were substituted—

““the Directive” means Council Directive 2005/36/EC on the recognition of professional qualifications as it had effect immediately before IP completion day and any reference to the Directive includes (without prejudice to the operation of section 20A of the Interpretation Act 1978) a reference to the Directive as extended by the EEA Agreement and by the Swiss Agreement as those Agreements had effect immediately before IP completion day;”;

(b) in the definition of “disqualifying decision”, in paragraph (a), the words “other than the United Kingdom” were omitted;

(c) there were inserted at the appropriate places—

““enforceable EU right” 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;

“the Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons signed at Luxembourg on 21st June 1999;”.

### Commencement Information

**I8** Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

30. Paragraph 7(2)(b) of Schedule 1A (visiting architects from relevant European States: Registrar’s power to remove person’s name from Part 2 of the Register) has effect as if the words “that is not the United Kingdom” were omitted.

### Commencement Information

**I9** Reg. 30 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

31. Any reference to a relevant European State other than the United Kingdom has effect as if the words “other than the United Kingdom” were omitted.

### Commencement Information

**I10** Reg. 31 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

**32.** Any reference to the 2015 Regulations has effect—

- (a) in relation to anything done before IP completion day, as if it were a reference to those Regulations as they had effect immediately before IP completion day;
- (b) otherwise, as if it were a reference to those Regulations as (and only to the extent that) they have effect, on or after IP completion day, in relation to an entitlement which arose before IP completion day or arises as a result of something done before IP completion day.]

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**Commencement Information**

- I11** Reg. 32 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Architects Act 1997 (Amendment) (EU Exit) Regulations 2019, PART 3.