
STATUTORY INSTRUMENTS

2020 No. 1342

**The Services of Lawyers and Lawyer's Practice
(Revocation etc.) (EU Exit) Regulations 2020**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 and, save as is provided in paragraphs (2) and (3), come into force on IP completion day.

(2) This regulation and regulation 3(c) and (d) come into force on the day after the day on which these Regulations are made.

(3) Paragraph 19 of the Schedule and regulation 12, so far as it relates to that paragraph, come into force immediately before IP completion day.

(4) Subject to paragraph (5), these Regulations extend to England and Wales and Northern Ireland only.

(5) The amendments in the Schedule have the same extent as the legislation being amended.

Interpretation

2. In these Regulations—

“the 1978 Order” means the European Communities (Services of Lawyers) Order 1978(1);

“the 2000 Regulations” means the European Communities (Lawyer's Practice) Regulations 2000(2).

Revocation

3. The following are revoked—

(a) the 1978 Order;

(b) the 2000 Regulations;

(c) the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2019(3);

(d) the Services of Lawyers and Lawyer's Practice (Amendment) (EU Exit) Regulations 2019(4).

Transitional provision: the 1978 Order and disciplinary proceedings

4.—(1) This regulation applies where—

(1) S.I. 1978/1910 relevant amendments made by S.I. 1981/228 (N.I. 8), 2003/435 (N.I. 10), 2004/1117, 2008/81, 2013/1605, 2019/375, and 2019/695.

(2) S.I. 2000/1119 relevant amendments made by S.I. 2001/644, 2003/435 (N.I. 10), 2004/1628, 2008/81, 2009/1587, 2009/3348, 2013/534, 2013/1605, 2013/3176, 2015/401, 2015/2059, 2019/375 and 2019/695.

(3) S.I. 2019/375 amended by S.I. 2019/695.

(4) S.I. 2019/695.

- (a) a complaint was made to a disciplinary authority under article 15(1) of the 1978 Order before IP completion day against a European lawyer (within the meaning of article 2 of the 1978 Order as it had effect immediately before IP completion day) who is not an individual to whom regulation 5 applies; and
- (b) one of the following applies—
 - (i) the disciplinary authority had not adjudicated upon the complaint before IP completion day,
 - (ii) the disciplinary authority had adjudicated upon the complaint and an appeal had been made against that adjudication before IP completion day, but the appeal had not been finally determined or withdrawn before IP completion day, or
 - (iii) the disciplinary authority had adjudicated upon the complaint before IP completion day but an appeal against that adjudication was not made until on or after IP completion day.

(2) Articles 15 to 17 of the 1978 Order (and articles 2 and 3 of that Order as they apply to articles 15 to 17) continue to apply to the complaint, as if the 1978 Order had not been revoked by regulation 3, until the complaint and, if applicable, any appeal, has been finally determined or withdrawn.

Transitional provision: the 1978 Order and Switzerland

5.—(1) This regulation applies to—

- (a) a European lawyer who is—
 - (i) a national of the United Kingdom or a Swiss national, and
 - (ii) established in Switzerland; or
- (b) a European lawyer who is integrated into the regular labour market of Switzerland and who is posted for the provision of carrying on services in professional activities in England and Wales or Northern Ireland by their employer who is established in Switzerland.

(2) For the purposes of this regulation, “European lawyer” has the same meaning as in article 2 of the 1978 Order as it had effect immediately before IP completion day.

(3) Subject to paragraph (4), the 1978 Order continues to have effect in relation to a European lawyer to whom this regulation applies as if the Order were not revoked by regulation 3, but were subject to the modifications specified in paragraph (5), until the later of—

- (a) the end of the period of 5 years beginning with IP completion day; or
- (b) if the period referred to in sub-paragraph (a) is extended in accordance with Article 23(2) of the Swiss citizens’ rights agreement (as that agreement is defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), the end of that period as extended.

(4) A European lawyer may only carry on professional activities in accordance with the 1978 Order—

- (a) on the basis of a written contract or contracts which were concluded, and the performance of which started, before IP completion day; and
- (b) for a period not exceeding 90 days in total in a calendar year.

(5) The modifications to the 1978 Order referred to in paragraph (3) are that article 2 of that Order has effect as if—

- (a) for the definition of “country of origin” there were substituted—
 - ““country of origin”, in relation to a European lawyer, means the state listed in column 1 of the table in the definition of “European lawyer” in which that lawyer

acquired authorisation to pursue professional activities and if the lawyer is authorised in more than one of those states, it means any of those states;”;

- (b) in the definition of “own professional authority”—
 - (i) after “means an authority” there were inserted “in Switzerland”, and
 - (ii) “in his member state of origin” were omitted.

Transitional provision: the 2000 Regulations and Swiss lawyers

6.—(1) This regulation applies to a Swiss lawyer.

(2) For the purposes of this regulation, “Swiss lawyer” means a national of the United Kingdom or a Swiss national who—

- (a) immediately before IP completion day was authorised in Switzerland to pursue professional activities under the professional title of Avocat, Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech or Avvocato; or
- (b) had started training towards but not yet obtained their professional qualifications before IP completion day in order to be authorised in Switzerland to pursue professional activities under one of the professional titles referred to in sub-paragraph (a) but who completed their qualifications and were so authorised before the end of the period of four years beginning with IP completion day.

(3) The provisions of the 2000 Regulations mentioned in paragraph (6) continue, subject to paragraphs (4) and (5), to have effect in relation to a Swiss lawyer as if not revoked by regulation 3 but with the modifications specified in paragraph (6).

(4) The provisions of the 2000 Regulations referred to in paragraph (3) cease to have effect in relation to a Swiss lawyer at the end of the period of four years beginning with IP completion day unless—

- (a) the Swiss lawyer is a registered European lawyer immediately before the end of that period;
- (b) the Swiss lawyer had applied before the end of that period for registration under regulation 16 of the 2000 Regulations (as it has effect by virtue of this regulation) and—
 - (i) that application had not been decided before the end of that period,
 - (ii) the application had been rejected, or deemed to be rejected, under regulation 19 of the 2000 Regulations (as it has effect by virtue of this regulation) and an appeal against that decision had not been finally determined or withdrawn before the end of that period, or
 - (iii) the application had been rejected, or deemed to be rejected, under regulation 19 of the 2000 Regulations (as it has effect by virtue of this regulation) but an appeal against that decision was not made until at or after the end of that period;
- (c) the Swiss lawyer’s registration as a registered European lawyer was suspended before the end of the period of four years beginning with IP completion day and—
 - (i) that suspension does not end until at or after the end of that period,
 - (ii) an application to terminate that suspension or an appeal against that suspension had not been finally determined or withdrawn before the end of that period,
 - (iii) an appeal against any determination of an application to terminate that suspension had not been finally determined or withdrawn before the end of that period,
 - (iv) an appeal against that suspension was not made until at or after the end of that period, or

- (v) any appeal against any determination of any application to terminate that suspension was not made until at or after the end of that period;
 - (d) the Swiss lawyer’s registration as a registered European lawyer was withdrawn or revoked before the end of the period of four years beginning with IP completion day by the professional body with whom that lawyer had been registered and—
 - (i) an appeal against that withdrawal or revocation had not been finally determined or withdrawn before the end of that period, or
 - (ii) an appeal against that withdrawal or revocation was not made until at or after the end of that period.
- (5) The provisions of the 2000 Regulations referred to in paragraph (3) cease to continue to have effect in relation to an individual where that individual ceases to be registered with one of the relevant professional bodies under regulation 17 of the 2000 Regulations (as it has effect by virtue of this regulation) at or after the end of the period of four years beginning with IP completion day and that individual —
- (a) was a registered European lawyer before the end of the period of four years beginning with IP completion day;
 - (b) is a Swiss lawyer of the description in paragraph (4)(b) who became a registered European lawyer at or after the end of the period of four years beginning with IP completion day;
 - (c) is a Swiss lawyer of the description in paragraph (4)(c) whose suspension as a registered European lawyer ended or was terminated at or after the end of the period of four years beginning with IP completion day; or
 - (d) is a Swiss lawyer of the description in paragraph (4)(d) whose registration as a registered European lawyer was restored at or after the end of the period of four years beginning with IP completion day following the final determination of an appeal.
- (6) The provisions referred to in paragraph (3) are—
- (a) regulation 2, modified so that—
 - (i) paragraph (1) has effect as if—
 - (aa) in the definition of “competent authority”, “to undertake the activities required by the Directive set out in that regulation” were omitted;
 - (bb) the definition of “home State” were omitted;
 - (cc) the definition of “home professional title” were omitted;
 - (dd) the definition of “Irish barrister” were omitted;
 - (ee) the definition of “Irish solicitor” were omitted;
 - (ff) the definition of “Qualification Regulations” were omitted; and
 - (gg) after the definition of “solicitors’ professional bodies” there were inserted
 “Swiss professional title” means, in relation to a European lawyer, any of the professional titles specified in paragraph (4) under which that lawyer is authorised in Switzerland to pursue professional activities.”
 - (ii) paragraph (2) has effect as if—
 - (aa) in sub-paragraph (a), for “of a State listed in paragraph (4)” there were substituted “a Swiss national”; and
 - (bb) in sub-paragraph (b), for “any of the States listed in paragraph (4)” there were substituted “Switzerland” and for “that paragraph” there were substituted “paragraph (4)”, and
 - (iii) for paragraph (4) (including the table) there were substituted—

- “(4) The professional titles referred to in the definitions of “Swiss professional title” in paragraph (1) and “European lawyer” in paragraph (2) are Avocat, Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech or Avvocato.”;
- (b) regulation 3, modified so that it has effect as if—
- (i) paragraph (1) were omitted, and
 - (ii) in paragraph (3), after “1978” there were inserted “as that Order has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020”;
- (c) regulation 4;
- (d) except where regulation 10(4)(a) of these Regulations applies, regulation 5, modified so that it has effect as if—
- (i) for paragraph (1) there were substituted—

“(1) In order to facilitate the application of the Directive and to prevent its provisions from being misapplied, and to facilitate compliance with Article 33 of the Swiss citizens’ rights agreement (as that agreement is defined in section 39(1) of the European Union (Withdrawal Agreement) 2020), a professional body must cooperate with any authority which has been designated by Switzerland under the Directive as a competent authority in Switzerland and may supply or receive any information relating to a European lawyer, or to any person with whom that European lawyer jointly practises, with other professional bodies, the Faculty of Advocates or Law Society of Scotland or an authority which has been designated by Switzerland under the Directive as a competent authority in Switzerland.”; and
 - (ii) paragraph (3) were omitted;
- (e) regulation 6, modified so that it has effect as if for “home professional title”, in both places where it occurs, there were substituted “Swiss professional title”;
- (f) regulation 7, modified so that it has effect as if—
- (i) in paragraph (1)(a), for “his home State” there were substituted “Switzerland”, and
 - (ii) in paragraph (2)—
 - (aa) in sub-paragraph (a), for “home professional title” there were substituted “Swiss professional title” and for “his home State” there were substituted “Switzerland”; and
 - (bb) in sub-paragraph (b), for “that State” there were substituted “Switzerland”;
- (g) regulation 8, modified so that it has effect as if—
- (i) for “home professional title”, in the first place where it occurs, there were substituted “Swiss professional title”,
 - (ii) for paragraph (b) there were substituted—

“(b) with another individual who is—

 - (i) a national of the United Kingdom, a member State of the European Union, Iceland, Liechtenstein, Norway or Switzerland; and
 - (ii) practising on a permanent basis under their Swiss professional title in Switzerland.”;
- (h) regulation 9, modified so that paragraph (1) has effect as if—
- (i) for “his home State” there were substituted “Switzerland”, and
 - (ii) for “home professional title” there were substituted “Swiss professional title”;

- (i) regulation 10, modified so that it has effect as if for “his home State” there were substituted “Switzerland”;
 - (j) regulation 11;
 - (k) regulation 12, modified so that it has effect as if “unless he has a home professional title obtained in Denmark, the Republic of Ireland, Finland, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia” were omitted;
 - (l) regulation 13, modified so that it has effect as if “unless he has a home professional title obtained in Denmark, Germany, the Republic of Ireland, Austria, Finland, Sweden, Iceland, Liechtenstein, Norway, Cyprus or Slovakia” were omitted;
 - (m) regulation 14;
 - (n) regulation 15;
 - (o) regulation 16, modified so that it has effect as if—
 - (i) in paragraph (1), for “home professional title” there were substituted “Swiss professional title”, and
 - (ii) in paragraph (2), for “each home State under whose home professional title” there were substituted “Switzerland under whose Swiss professional title”;
 - (p) regulation 17, modified so that paragraph (2) has effect as if for “the home State” there were substituted “Switzerland”;
 - (q) regulation 18, modified so that it has effect as if paragraphs (2) and (3) were omitted;
 - (r) regulation 19;
 - (s) regulation 20;
 - (t) regulation 23;
 - (u) regulation 24;
 - (v) regulation 25, modified so that it has effect as if for “home professional title” there were substituted “Swiss professional title”;
 - (w) regulation 26;
 - (x) regulation 27, modified so that it has effect as if—
 - (i) in paragraph (1)(a), for “his home State” there were substituted “Switzerland”,
 - (ii) in paragraph (2)—
 - (aa) for “Subject to paragraph (3), where” there were substituted “Where”;
 - (bb) for “the registered European lawyer’s home State” there were substituted “Switzerland”; and
 - (cc) for “the home professional title” there were substituted “his Swiss professional title”,
 - (iii) paragraph (3) were omitted, and
 - (iv) in paragraph (4), for “the registered European lawyer’s home State” there were substituted “Switzerland”;
 - (y) regulation 37; and
 - (z) Schedules 1 to 5.
- (7) In this regulation “registered European lawyer” has the same meaning as in regulation 2(1) of the 2000 Regulations as it has effect by virtue of this regulation.

Saving provision: offence of pretending to be a registered European lawyer

7.—(1) Regulation 21 of the 2000 Regulations (and regulations 2 and 17 of those Regulations as they apply to regulation 21) continues to have effect as if not revoked by regulation 3 subject to the modifications set out in paragraph (2).

(2) Regulation 21 has effect as if paragraphs (1)(b) and (2) were omitted.

Transitional provision: disciplinary proceedings

8.—(1) This regulation applies in the situations described in paragraphs (2) to (4).

(2) The first situation is where an appropriate authority has commenced disciplinary proceedings before IP completion day, in relation to an individual who—

(a) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before IP completion day) at a time before IP completion day; but

(b) is not an individual to whom regulation 6 applies,

and those proceedings have not been determined before IP completion day.

(3) The second situation is where any appeal against the determination of disciplinary proceedings commenced by an appropriate authority has not been finally determined or withdrawn before IP completion day, in relation to an individual who—

(a) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before IP completion day) at a time before IP completion day; but

(b) is not an individual to whom regulation 6 applies.

(4) The third situation is where the time limit has not yet expired for bringing an appeal against the determination of disciplinary proceedings commenced before IP completion day by an appropriate authority in relation to an individual who—

(a) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before IP completion day) at a time before the proceedings were commenced; but

(b) is not an individual to whom regulation 6 applies.

(5) Where this regulation applies, the provisions of the 2000 Regulations mentioned in paragraph (6) continue to have effect as if the 2000 Regulations had not been revoked by regulation 3, but subject to any modifications specified in paragraphs (6) and (7), until the disciplinary proceedings or any appeal have been finally determined or withdrawn.

(6) The provisions referred to in paragraph (5) are—

(a) regulation 2;

(b) regulation 26, modified so that it has effect as if—

(i) in paragraph (1), reference to “fails” were a reference to “failed”, reference to “he is subject” were reference to “the registered European lawyer was subject” and reference to “is registered” were a reference to “was registered”,

(ii) paragraph (2) were omitted, and

(iii) in paragraph (4), reference to “is registered”, in each place where it occurs, were a reference to “was registered”;

(c) regulation 27—

- (i) paragraph (1)(c), modified so that it has effect as if reference to “that authority” were a reference to “the competent authority in the registered European lawyer’s home state”;
 - (ii) paragraph (4);
 - (d) regulation 37(3) and (4) in so far as it applies to sub-paragraphs (e) and (f) of this paragraph;
 - (e) paragraphs 7(2), 10 and 24 of Schedule 4; and
 - (f) paragraph 3 of Schedule 5.
- (7) Any reference to “registered European lawyer” in the provisions referred to in paragraph (6) has effect as if it were a reference to an individual who was formerly a registered European lawyer.
- (8) In this regulation “appropriate authority” has the same meaning as in regulation 26 of the 2000 Regulations as it had effect immediately before IP completion day.

Transitional provision: applications for entry into profession of solicitor or barrister

9.—(1) Except where regulation 10 applies, this regulation applies where an application under regulation 29 of the 2000 Regulations (as that regulation had effect immediately before IP completion day) for an exemption from a requirement to pass an aptitude test is made before IP completion day and—

- (a) that application has not been determined before IP completion day;
- (b) any appeal against the determination of that application has not been finally determined or withdrawn before IP completion day; or
- (c) the time limit for bringing an appeal against the determination of that application has not expired.

(2) Where this regulation applies, the provisions of the 2000 Regulations mentioned in paragraph (3) continue to have effect as if they had not been revoked by regulation 3, but subject to any modifications specified in paragraphs (3) and (4), until the application and, if applicable, any appeal have been finally determined or withdrawn.

(3) The provisions referred to in paragraph (2) are—

- (a) regulation 2;
- (b) regulation 4(b) and Schedule 2;
- (c) regulation 5, modified so that it has effect as if for paragraph (1) there were substituted—

“(1) In order to facilitate compliance with Article 29 of the withdrawal agreement and Article 28 of the EEA EFTA separation agreement (as those agreements are defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), a professional body must cooperate with any authority in any of the States listed in regulation 2(4) which has been designated under the Directive by that State as a competent authority in that State and may supply to or receive from such authority, any information relating to a European lawyer or to any person with whom that European lawyer jointly practises.”;

- (d) regulation 30, modified so that it has effect as if paragraph (2) were omitted;
- (e) regulation 31;
- (f) regulation 32, modified so that it has effect as if in paragraph (2) the reference to “the period he has been registered” were a reference to “the period the European lawyer was registered”;
- (g) regulation 33;
- (h) regulation 34;

- (i) regulation 35;
- (j) regulation 36, modified so that it has effect as if paragraphs (4) and (5) were omitted;
- (k) regulation 37(3) and (4);
- (l) Schedule 1;
- (m) paragraph 1(1) of Schedule 4;
- (n) paragraph 1(2) of Schedule 5 as it applies to article 6 of the Solicitors (Northern Ireland) Order 1976(5).

(4) Any reference to “registered European lawyer” in the provisions referred to in paragraph (3) has effect as if it were a reference to an individual who was formerly a registered European lawyer.

Transitional provision: applications by Swiss lawyers for entry into profession of solicitor or barrister

10.—(1) This regulation applies to a Swiss lawyer to whom regulation 6 applies.

(2) Where this regulation applies, regulation 5 and Part 5 of the 2000 Regulations continue to have effect in relation to a Swiss lawyer referred to in paragraph (1) as if not revoked by regulation 3, but subject to paragraph (3) and the modifications specified in paragraph (4).

(3) Any application made under regulation 29 of the 2000 Regulations (as it has effect by virtue of this regulation) for an exemption from a requirement to pass an aptitude test must be made before the end of the period of four years beginning with IP completion day.

(4) The modifications to the 2000 Regulations referred to in paragraph (2) are—

(a) regulation 5 is modified so that it has effect as if for paragraph (1) there were substituted—

“(1) In order to facilitate compliance with Article 33 of the Swiss citizens’ rights agreement (as that agreement is defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), a professional body must cooperate with an authority which has been designated by Switzerland under the Directive as a competent authority in Switzerland and may supply to or receive from any such authority, information relating to a European lawyer or to any person with whom that European lawyer jointly practises;”;

(b) regulation 29 is modified so as to have effect as if—

(i) in paragraph (1), “under regulation 34(a) of the Qualification Regulations” were omitted, and

(ii) in paragraphs (2)(b) and (3)(b) and (c), for “home professional title” there were substituted “Swiss professional title”; and

(c) regulation 36 is modified so as to have effect as if—

(i) in paragraph (2)—

(aa) for “home professional title”, in both places where it occurs, there were substituted “Swiss professional title”; and

(bb) for “his home State”, in both places where it occurs, there were substituted “Switzerland”, and

(ii) in paragraph (3) for “home professional title”, in both places where it occurs, there were substituted “Swiss professional title”.

Transitional provision: duty of co-operation

11.—(1) This regulation applies to a professional body in relation to a solicitor or barrister in the situations described in paragraphs (2) or (3).

(2) The first situation is where the barrister or solicitor has a pending application under Article 10(1), (3) and (4) of the Directive as referred to in Article 28 of the withdrawal agreement or Article 27 of the EEA EFTA separation agreement (as those agreements are defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020).

(3) The second situation is where Article 30(2), 31(1) (to the extent it applies Articles 2 and 10 of the Directive) or (2), or 32(3) or (4) of the Swiss citizens' rights agreement (as that agreement is defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020) applies to the barrister or solicitor.

(4) Where this regulation applies, the provisions of the 2000 Regulations mentioned in paragraph (5) continue to have effect as if they had not been revoked by regulation 3, but with the modifications specified in that paragraph.

(5) The provisions referred to in paragraph (4) are—

- (a) regulation 2;
- (b) regulation 4(d) and Schedule 2;
- (c) regulation 5, modified so that it has effect as if—
 - (i) for paragraph (1) there were substituted—

“(1) In order to facilitate compliance with Article 29 of the withdrawal agreement, Article 28 of the EEA EFTA separation agreement and Article 33 of the Swiss citizens' rights agreement (as those agreements are defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), a professional body must cooperate with any authority in any of the States listed in regulation 2(4) which has been designated under the Directive by that State as a competent authority in that State and may supply to or receive from any such authority, information relating to a solicitor or barrister, or to any person with whom that solicitor or barrister jointly practises.”, and

(ii) in paragraph (2) the reference to “European lawyer” were a reference to “solicitor or barrister”;

(d) regulation 28.

(6) In this regulation the terms “barrister”, “Directive”, “professional body” and “solicitor” have the same meaning as in regulation 2(1) of the 2000 Regulations as it had effect immediately before IP completion day.

Consequential amendments and further transitional provision

12. The Schedule to these Regulations makes consequential amendments and further transitional provision.

Signed

23rd November 2020

Alex Chalk
Parliamentary Under Secretary of State
Ministry of Justice