

## SCHEDULE 1

Regulation 4

### Amendments to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019

1. The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 are amended as follows.

#### Commencement Information

- I1** Sch. 1 para. 1 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

2. In Part 2 of Schedule 1(1)—

- (a) in the heading, for “exit day” substitute “IP completion day”;
- (b) in paragraph 7, in the substituted regulation 3—
  - (i) in paragraph (a)—
    - (aa) in sub-paragraph (x), omit “and Social Work”;
    - (bb) in sub-paragraph (xi), at the beginning insert “the”;
    - (cc) omit sub-paragraph (xiii);
  - (ii) in paragraph (g), for “exit day” substitute “IP completion day”;
- (c) in paragraph 19(b), for the inserted paragraph (1A)(b)(ii) and the “or” following it substitute—
  - “(ii) requires specific training that covers substantially different matters from those covered by the applicant’s evidence of formal qualifications; or”;
- (d) in paragraph 37(a), after paragraph (vii), insert—
  - “(viiia) Farrier in England, Wales and Scotland;”.

#### Commencement Information

- I2** Sch. 1 para. 2 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

3. For Part 3 of Schedule 1, substitute the following—

## “PART 3

### Transitional and saving provision

#### Saving of decisions etc. taken before IP completion day

**40.** The amendments and revocations made by these Regulations do not affect the validity of any action or decision taken or right accrued under the principal Regulations or the 2007 Regulations before IP completion day, except as provided in this Part.

(1) Part 2 of Schedule 1 amends the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059). Part 3 contains saving and transitional provisions relating to the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781) and S.I. 2015/2059. S.I. 2007/2781 was revoked with savings by S.I. 2015/2059 and by S.I. 2019/312.

**Language testing – transitional and saving provision**

**41.**—(1) Where a competent authority has recognised a professional qualification—

- (a) before IP completion day, under the principal Regulations; or
- (b) pursuant to paragraph 44,

the provisions of the principal Regulations specified in sub-paragraph (2) continue to apply on and after IP completion day as they had effect immediately before IP completion day.

(2) The specified provisions are—

- (a) regulation 6;
- (b) regulation 68, so far as it relates to appeals against a decision of a competent authority under regulation 6(1); and
- (c) any other provision of the principal Regulations so far as they relate to those provisions.

**Temporary and occasional provision of services – Part 2 of the principal Regulations - transitional and saving provision**

**42.**—(1) This paragraph applies where, before exit day, an applicant has submitted or renewed a declaration in accordance with regulation 15 of the principal Regulations to the appropriate competent authority, and, on IP completion day, has not lost entitlement to provide services.

(2) The provisions of the principal Regulations relating to the provision of services on a temporary and occasional basis continue to apply on and after IP completion day in relation to the applicant concerned, as they had effect immediately before IP completion day but subject to the modifications specified in sub-paragraph (3), until the earlier of the following—

- (a) the day before that on which renewal of the declaration in accordance with regulation 15(2)(c) would have been required but for the modification specified in sub-paragraph (3); or
- (b) 30th January 2021.

(3) The modifications to the principal Regulations are as follows—

- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State”;
- (b) regulation 5 is to be read as if—
  - (i) in paragraph (2), “, using the IMI procedure” were omitted;
  - (ii) paragraph (3) were omitted;
  - (iii) in paragraph (5), for the words from “rules” to the end there were substituted “legislation within the meaning of section 3(9) of the Data Protection Act 2018(2)”;
  - (iv) paragraph (7) were omitted;
  - (v) for paragraph (8), there were substituted—

“(8) Where a competent authority asks for advanced electronic signatures under Article 3(11) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market for the

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(2) 2018 c. 12. Section 3(9) was amended by [S.I. 2019/419](#).

- completion of procedures referred to in paragraph (6), it must act in accordance with Article 27 of that Regulation (and for this purpose the completion of the procedures is to be treated as the use of an online service to which that Article applies).”;
- (vi) paragraph (9) were omitted;
  - (vii) in paragraph (10), for “regulations 21 and 42” there were substituted “regulation 21”;
  - (viii) after paragraph (11), there were inserted—
    - “(12) If the applicant does not provide any certified copies requested under paragraph (6) before the expiry of the time limit for the competent authority to notify the applicant of its decision under regulation 21, the competent authority may refuse the provision of services.”;
  - (c) regulation 15 is to be read as if—
    - (i) in paragraph (2), sub-paragraph (c) and the “and” immediately before it were omitted;
    - (ii) paragraph (3) were omitted;
  - (d) regulation 23 is to be read as if in paragraph (2) after “the applicant may” there were inserted “not”;
  - (e) regulation 24 is to be read as if paragraphs (2), (3) and (4) were omitted;
  - (f) regulation 25 is to be read as if—
    - (i) after paragraph (1), there were inserted—
      - “(1A) If the competent authorities of the home State fail to provide the information requested under paragraph (1) within such period as may be specified in the request, the applicant will no longer be entitled to provide services in the profession that the applicant is pursuing in the United Kingdom in accordance with this Part nor retain any temporary registration.”;
    - (ii) paragraph (3) were omitted;
  - (g) regulation 26(e) is to be read as if for the words from “the VAT identification” to the end there were substituted “the country in which the applicant is VAT registered and the applicant’s VAT registration number”;
  - (h) Parts 4 and 5 are to be ignored;
  - (i) in regulation 66—
    - (i) paragraph (1) is to be read as if for “must” there were substituted “may”;
    - (ii) paragraph (3) is to be read as if for the words from “rules” to the end there were substituted “legislation within the meaning of section 3(9) of the Data Protection Act 2018”;
  - (j) regulation 67 is to be ignored, save to the extent that paragraph 47 of this Schedule applies;
  - (k) regulation 68, so far as it relates to an appeal under regulation 67, is to be ignored, save to the extent that paragraph 47 of this Schedule applies.
- (4) In this paragraph, “applicant” has the meaning in regulation 8(3) of the principal Regulations—
- (a) before amendment made by Part 2; and
  - (b) with the omission of the words “including Part 4”.

### **Temporary and occasional provision – transitional and saving provision relating to certain sectoral professions**

**43.—**(1) In connection with the provisions referred to in sub-paragraph (2), so far as they continue to have effect after IP completion day—

- (a) regulations 3(9), 9 and 14 to 16 of the 2007 Regulations, as well as any other provision of those Regulations which, immediately before IP completion day, applied in connection with regulations 9 and 14 to 16, continue to apply as they applied immediately before IP completion day, by virtue of regulation 78(3) of the principal Regulations, but with the modifications specified in paragraph 48(3) or 49(3) of this Schedule (as the case may be);
- (b) regulations 3(8), 13 and 19 to 23 of the principal Regulations, as well as any other provision of those Regulations which, immediately before IP completion day, applied in connection with regulations 13 and 19 to 23, continue to apply without the amendments made by Part 2, but with the modifications specified in paragraph 42(3) of this Schedule.

(2) The provisions are—

- (a) Schedule 1B to the Veterinary Surgeons Act 1966(3);
- (b) Schedule 2A to the Medical Act 1983(4);
- (c) Schedule 4 to the Dentists Act 1984(5);
- (d) Schedule 2A to the Nursing and Midwifery Order 2001(6);
- (e) Schedule 2 to the Pharmacy Order 2010(7).

### **Applications begun before IP completion day – establishment under Chapters 1 and 2 of Part 3 of the principal Regulations - transitional and saving provision**

**44.—**(1) This paragraph applies where—

- (a) before IP completion day, an applicant has made an application to a competent authority or to a point of single contact under, or relying on an entitlement under, Chapters 1 and 2 of Part 3 of the principal Regulations; 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 competent authority has notified or is deemed to have notified the applicant of its decision; and
- (b) either—
  - (i) the period for appeal against that decision under the principal Regulations has expired without an appeal being made; or
  - (ii) an appeal made under regulation 68(1) of the principal Regulations against a decision taken or deemed to be taken under regulations 10 or 42(2) has been determined.

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(3) 1966 c. 36. Schedule 1B was inserted by S.I. 2008/1824 and amended by S.I. 2011/1043, 2015/2073. Schedule 1B is revoked with savings by SI 2019/454 with effect from IP completion day

(4) 1983 c. 54. Schedule 2A was inserted by S.I. 2007/3101 and amended by S.I. 2016/1030. Schedule 2A is revoked with savings by SI 2019/593 with effect from IP completion day.

(5) 1984 c. 24. Schedule 4 was substituted by S.I. 2007/3101 and amended by S.I. 2016/1030. Schedule 4 is revoked with savings by SI 2019/593 with effect from IP completion day.

(6) S.I. 2002/253. Schedule 2A was inserted by S.I. 2007/3101 and amended by S.I. 2011/1043, 2016/1030. Schedule 2A is revoked with savings by SI 2019/593 with effect from IP completion day.

(7) S.I. 2010/231, amended by S.I. 2016/1030. Schedule 2 is revoked with savings by SI 2019/593 with effect from IP completion day.

(3) The provisions of the principal Regulations continue to apply on and after IP completion day as they had effect immediately before IP completion day, but subject to the modifications specified in sub-paragraph (4), in relation to—

- (a) the application concerned; and
- (b) any appeal under regulation 68(1) of the principal Regulations against a decision taken or deemed to be taken under regulations 10 or 42(2) in relation to that application.

(4) The modifications to the principal Regulations are as follows—

(a) the United Kingdom is to be treated as falling within the definition of “relevant European State” in regulation 2(1);

(b) regulation 5 is to be read as if—

(i) in paragraph (2), after “IMI procedure” there were inserted “where appropriate in accordance with Article 29(2) of the withdrawal agreement<sup>(8)</sup>”;

(ii) paragraph (3) were omitted;

(iii) for paragraph (4), there were substituted—

“(4) A competent authority must—

(a) act as a point of single contact for their regulated professions; and

(b) provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”;

(iv) in paragraph (5), for the words from “rules” to the end there were substituted “legislation within the meaning of section 3(9) of the Data Protection Act 2018.”;

(v) for paragraph (8) there were substituted—

“(8) Where a competent authority asks for advanced electronic signatures under Article 3(11) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market for the completion of procedures referred to in paragraph (6), it must act in accordance with Article 27 of that Regulation (and for this purpose the completion of the procedures is to be treated as the use of an online service to which that Article applies).”;

(vi) paragraph (9) were omitted;

(vii) in paragraph (10), for “regulations 21 and” there were substituted “regulation”;

(c) regulation 41 is to be ignored;

(d) regulation 42(5) is to be ignored;

(e) Parts 4 and 5 are to be ignored;

(f) regulation 66(3) is to be read as if for the words from “rules” to the end there were substituted “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”;

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<sup>(8)</sup> See section 39(1) of the 2020 Act for the definition of “withdrawal agreement”.

**Changes to legislation:** There are currently no known outstanding effects for the The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020. (See end of Document for details)

- (g) regulation 67 is to be ignored, save to the extent that paragraph 47 of this Schedule applies;
  - (h) regulation 68, so far as it relates to an appeal under regulation 67, is to be ignored, save to the extent that paragraph 47 of this Schedule applies.
- (5) In this paragraph, “applicant” has the meaning in regulation 8(4) of the principal Regulations—
- (a) before amendment made by Part 2; and
  - (b) with the omission of the words “including Part 4”.

#### **Administrative co-operation under the withdrawal agreement and the EEA EFTA separation agreement**

**45.**—(1) This paragraph applies 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<sup>(9)</sup> to a competent authority in a European State for recognition of a professional qualification awarded or recognised by a competent authority in the United Kingdom.

- (2) Where sub-paragraph (1) applies, the competent authority in the United Kingdom—
- (a) must cooperate with the competent authority or assistance centre in the European State, or with the individual (as the case may be), in accordance with—
    - (i) regulation 5(2), (4) and (5) of the principal Regulations, as modified in accordance with paragraph 44(4)(b), and
    - (ii) regulation 5(3) of the principal Regulations; and
  - (b) for the purposes of paragraph (a), may exchange information with the European State competent authority 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.

(3) Competent authorities in the United Kingdom must exchange information for the purposes of sub-paragraph (2) 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.

(4) In this paragraph, a reference to the principal Regulations is to those Regulations as they had effect immediately before IP completion day, and—

“competent authority” has the meaning in regulation 2(1) of the principal Regulations; and

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

#### **Certificates of Experience – Chapter 3 of Part 3 of the principal Regulations - transitional and saving provision**

**46.**—(1) Where, before IP completion day, a person has applied to ECCTIS Limited<sup>(10)</sup> for a Certificate of Experience under regulation 36 of the principal Regulations—

- (a) that regulation; and
- (b) any other provision of the principal Regulations so far as it relates to regulation 36,

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<sup>(9)</sup> See section 39(1) of the 2020 Act for the definition of “EEA EFTA separation agreement”.

<sup>(10)</sup> ECCTIS Limited is a private limited company registered in England and Wales with company number 2405026.

continue to apply on and after IP completion day as they had effect immediately before IP completion day in relation to that application.

(2) Regulation 37 continues to apply on and after IP completion day as it had effect immediately before IP completion day in relation to any Certificate of Experience issued by ECCTIS under the principal Regulations.

#### **Alert mechanism – saving provision**

**47.**—(1) This paragraph applies where a designated competent authority has, before IP completion day, sent an alert under regulation 67 of the principal Regulations.

(2) Regulations 67 and 68 of the principal Regulations continue to apply on and after IP completion day as they had effect immediately before IP completion day, but subject to the modifications specified in sub-paragraph (3), in relation to—

- (a) the decision to send the alert; and
- (b) any appeal made in relation to that decision.

(3) The modifications to the principal Regulations are as follows—

- (a) regulations 67(1) to (6) are to be ignored;
- (b) regulation 67(8) is to be read as if for “qualify the alert to show that it” there were substituted “notify the Commission that the alert”;
- (c) regulation 67(9) is to be read as if for the words from “delete” to “it”, there were substituted “notify the Commission within three days of a decision revoking the alert”;
- (d) regulation 68(5) is to be read as if for sub-paragraph (b) there were substituted—
  - “(b) allow the appeal and direct the designated competent authority to take such steps as the appeal body thinks fit to draw the findings of the appeal body to the attention of the Commission.”.

#### **The 2007 Regulations – Temporary and occasional provision of services - transitional and saving provision**

**48.**—(1) This paragraph applies where, before exit day, an applicant has submitted or renewed a declaration in accordance with regulation 11 of the 2007 Regulations to the appropriate competent authority, and, on IP completion day, has not lost entitlement to provide services.

(2) The provisions of the 2007 Regulations relating to the provision of services on a temporary and occasional basis continue to apply on and after IP completion day in relation to the applicant concerned, as they had effect immediately before IP completion day, but subject to the modifications specified in sub-paragraph (3), until the earlier of the following—

- (a) the day before that on which renewal of the declaration in accordance with regulation 11(2)(c) would have been required but for the modification specified in sub-paragraph (3); or
- (b) 30th January 2021.

(3) The modifications to the 2007 Regulations are as follows—

- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State” in regulation 2(1);
- (b) regulation 5 is to be read as if paragraphs (5) and (7) were omitted;

- (c) regulation 11 is to be read as if—
    - (i) paragraph (2)(c) and the “and” immediately before it were omitted;
    - (ii) paragraph (3) were omitted;
  - (d) regulation 16(5) is to be read as if after “the applicant may” there were inserted “not”;
  - (e) regulation 17 is to be read as if paragraphs (2), (3) and (4) were omitted;
  - (f) regulation 18 is to be read as if after paragraph (2), there were inserted—
    - “(3) If the competent authorities of the home State fail to provide the information requested under paragraph (1)(a) within such period as may be specified in the request, the applicant will no longer be entitled to provide services in the profession that the applicant is pursuing in the United Kingdom in accordance with this Part nor retain any temporary registration.”;
  - (g) regulation 19(e) is to be read as if for the words from “the VAT identification” to the end there were substituted “the country in which the applicant is VAT registered and the applicant’s VAT registration number”.
- (4) In this paragraph, “applicant” has the meaning in regulation 6(3) of the 2007 Regulations, as those Regulations had effect immediately before IP completion day, but does not include a relevant applicant as defined in paragraph 49(2).

#### **Temporary and occasional provision of services – additional rights under the Swiss citizens’ rights agreement**

- 49.—(1) This paragraph applies in relation to a relevant applicant.
- (2) In this paragraph, a “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 a written contract which was concluded, and the performance of which started, before IP completion day;
  - (b) who began providing the services described 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 state, 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 in the United Kingdom, and “third country” and “same profession” have the meanings in regulation 2(1) of the 2007 Regulations as they had effect immediately before IP completion day.
- (3) The provisions of the 2007 Regulations relating to the provision of services on a temporary and occasional basis continue to apply on and after IP completion day in relation



to a relevant applicant, as they had effect immediately before IP completion day but subject to the modifications specified in sub-paragraph (4), until—

- (a) the end of the period of five years beginning with IP completion day; or
- (b) where the period referred to in paragraph (a) is extended in accordance with Article 23(2) of the Swiss citizens' rights agreement<sup>(11)</sup>, the end of that period as extended.

(4) The modifications to the 2007 Regulations referred to in sub-paragraph (3) are as follows—

- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State” in regulation 2(1);
- (b) regulation 5 is to be read as if—
  - (i) for “other relevant European States” in paragraphs (2)(a) and (b) and (3), and “another relevant European State which regulates that profession” in paragraph (5), there were substituted “Switzerland”;
  - (ii) for paragraph (7), there were substituted—

“(7) A competent authority must provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”;
- (c) in regulation 6(3), the definition of “applicant” is to be read as meaning a relevant applicant as defined in sub-paragraph (2) of this paragraph;
- (d) regulation 10(1) is to be read as if for “another relevant European State” there were substituted “Switzerland”;
- (e) regulation 11(1) is to be read as if for “another relevant European State” there were substituted “Switzerland”;
- (f) regulation 12 is to be read as if—
  - (i) in paragraph (1), after sub-paragraph (a) the “or” were omitted and there were inserted—

“(aa) for the first renewal of the declaration following IP completion day, or”;
  - (ii) in paragraph (2)—
    - (aa) in sub-paragraph (a), for “a relevant European State” there were substituted “the United Kingdom or Switzerland”;
    - (bb) in sub-paragraph (b), for “another relevant European State” there were substituted “Switzerland”;
    - (cc) after sub-paragraph (e), there were inserted—

“(f) evidence of the written contract which was concluded, and the performance of which started, before IP completion day.”;
- (g) regulation 17(1) is to be read as if—
  - (i) after sub-paragraph (a), the “or” were omitted;
  - (ii) after sub-paragraph (b) there were inserted—

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<sup>(11)</sup> See section 39(1) of the 2020 Act for the definition of “Swiss citizens' rights agreement”.

- “(c) the applicant ceases for any reason other than one falling within sub-paragraph (b) to be established for the purposes of pursuing that profession in Switzerland; or
- (d) the applicant ceases to provide services pursuant to a written contract which was concluded, and the performance of which started, before IP completion day.”;
- (h) regulation 18(1) is to be read as if—
  - (i) in sub-paragraph (a), for “the home State” there were substituted “Switzerland”;
  - (ii) in sub-paragraph (b), for “other relevant European States” there were substituted “Switzerland”;
- (i) regulation 19 is to be read as if—
  - (i) for “the home State”, in both places it occurs, there were substituted “Switzerland”;
  - (ii) in paragraph (e), for the words from “the VAT identification” to the end there were substituted “the country in which the applicant is VAT registered and the applicant’s VAT identification number”.

**Applications begun before IP completion day – establishment under Chapters 1 and 2 of Part 3 of the 2007 Regulations - transitional and saving provision**

- 50.**—(1) This paragraph applies where—
- (a) before IP completion day, an applicant has made an application to a competent authority under, or relying on an entitlement under, Chapters 1 and 2 of Part 3 of the 2007 Regulations; 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 competent authority has notified or is deemed to have notified the applicant of its decision; and
  - (b) either—
    - (i) the period for appeal against that decision under the 2007 Regulations has expired without an appeal being made; or
    - (ii) an appeal made under regulation 36(1) of the 2007 Regulations against a decision taken or deemed to have been taken under regulation 34 has been determined.
- (3) The provisions of the 2007 Regulations continue to apply on and after IP completion day as they had effect immediately before IP completion day, but subject to the modifications specified in sub-paragraph (4), in relation to—
- (a) the application concerned; and
  - (b) any appeal under regulation 36 of the 2007 Regulations against a decision taken or deemed to have been taken under regulation 34 in relation to that application.
- (4) The modifications to the 2007 Regulations are as follows—
- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State” in regulation 2(1);
  - (b) regulation 5 is to be read as if for paragraph (7), there were substituted—

“(7) A competent authority must provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”.

(5) In this paragraph, “applicant” has the meaning in regulation 6(3) of the 2007 Regulations, as those Regulations had effect immediately before IP completion day.

### **Qualifications begun before IP completion day – extended period for applications under the Swiss citizens’ rights agreement**

**51.**—(1) This paragraph applies in relation to a qualifying applicant.

(2) In this paragraph, a “qualifying applicant” means an individual who—

- (a) 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 state, for the purposes of access to and pursuit of a regulated profession;
- (b) wishes to access and pursue a regulated profession in the United Kingdom on a permanent basis, whether in an employed or self-employed capacity;
- (c) has obtained a relevant qualification;
- (d) if that relevant qualification was obtained in a third country, has three years’ professional experience in the profession concerned in the territory of Switzerland and certified by a competent authority in Switzerland; and
- (e) if that relevant qualification is a professional qualification obtained in an EEA State, is legally established in Switzerland, unless the individual is a Swiss national.

(3) In this paragraph, “relevant qualification” means —

- (a) a professional qualification obtained in an EEA State or Switzerland before IP completion day;
- (b) a professional qualification started in an EEA State or Switzerland before IP completion day but completed after IP completion day;
- (c) a third country professional qualification recognised by a competent authority in Switzerland pursuant to Article 2(2) of [Directive 2005/36/EC](#) before IP completion day;
- (d) a third country professional qualification for which an application for recognition pursuant to Article 2(2) of [Directive 2005/36/EC](#) has been submitted to a competent authority in Switzerland before IP completion day, where that application is successful after IP completion day.

(4) In this paragraph—

“[Directive 2005/36/EC](#)” means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications<sup>(12)</sup>, as it had effect immediately before IP completion day;

“competent authority”, “professional qualification” and “third country” have the meanings in regulation 2(1) of the 2007 Regulations as they had effect immediately before IP completion day.

(5) Where a qualifying applicant makes an application to a competent authority for recognition of a relevant qualification before the end of the period of four years beginning

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(12) OJ No L255, 30.09.2005, p 22.

with IP completion day, the provisions of the 2007 Regulations continue to apply on and after IP completion day as those Regulations had effect immediately before IP completion day, but subject to the modifications specified in sub-paragraph (6), in relation to—

- (a) the application concerned; and
  - (b) any appeal under regulation 36 of the 2007 Regulations against a decision made under regulation 34 in relation to that application.
- (6) The modifications to the 2007 Regulations are as follows—
- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State” in regulation 2(1);
  - (b) regulation 5 is to be read as if—
    - (i) in paragraph (5), for “another relevant European State which regulates that profession” there were substituted “Switzerland”;
    - (ii) for paragraph (7), there were substituted—
 

“(7) A competent authority must provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”;
  - (c) in regulation 6(4), the definition of “applicant” is to be read as meaning a qualifying applicant as defined in sub-paragraph (2) of this paragraph.

### **Certificates of Experience – Chapter 3 of Part 3 of the 2007 Regulations - transitional and saving provision**

**52.**—(1) Where, before IP completion day, a person has applied to ECCTIS Limited for a Certificate of Experience under regulation 29 of the 2007 Regulations—

- (a) that regulation; and
- (b) any other provision of the 2007 Regulations so far as it relates to regulation 29,

continue to apply on and after IP completion day as they had effect immediately before IP completion day in relation to that application.

(2) Regulation 30 of the 2007 Regulations continues to apply on and after IP completion day as it had effect immediately before IP completion day in relation to any Certificate of Experience issued by ECCTIS under the 2007 Regulations.

### **Further provisions relating to the Swiss citizens’ rights agreement**

**53.**—(1) In dealing with a relevant applicant (as defined in paragraph 49(2)) who provides services in the United Kingdom pursuant to paragraph 49, a competent authority must treat the applicant no less favourably than it would treat a native applicant (as defined in regulation 2(1) of the 2007 Regulations) providing services in the United Kingdom.

(2) Where an individual is providing services on a temporary and occasional basis in Switzerland pursuant to Article 23 of the Swiss citizens’ rights agreement, the appropriate competent authority in the United Kingdom must cooperate with and provide the appropriate competent authority in Switzerland with any information relevant to the 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 regulation 5(2), (3) and (4) of the 2007 Regulations.

(3) Where an individual has made or makes an application falling within Article 31(1) or Article 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 appropriate competent authority in the United Kingdom must cooperate with and provide information to the competent authority or contact point in Switzerland, or the individual (as the case may be), in accordance with regulation 5(2) to (7) of the 2007 Regulations.

(4) Competent authorities in the United Kingdom must exchange information for the purposes of sub-paragraphs (2) and (3) in accordance with data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018.

(5) An individual, in connection with the recognition of professional qualifications in Switzerland pursuant to Article 31(1) or Article 32(1) or (5) of the Swiss citizens' rights agreement, may make an application to ECCTIS Limited for a Certificate of Experience, and where that individual does so—

- (a) regulation 29 of the 2007 Regulations, and any other provision of the 2007 Regulations so far as it relates to regulation 29, applies on and after IP completion day in relation to that application; and
- (b) regulation 30 of the 2007 Regulations applies on and after IP completion day in relation to any Certificate of Experience issued by ECCTIS under the 2007 Regulations.

(6) In this paragraph, a reference to the 2007 Regulations is to those Regulations as they had effect immediately before IP completion day, and “competent authority” has the meaning in regulation 2(1) of the 2007 Regulations.”.

#### Commencement Information

**I3** Sch. 1 para. 3 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

4. In Schedule 2 (amendments etc. of secondary legislation relating to school teachers)—

- (a) in paragraph 1(3), in the substituted paragraph 8—
  - (i) renumber the second sub-paragraph (1)(a) as (c);
  - (ii) in sub-paragraph (1)(c), for “paragraph 48” substitute “paragraph 50 or paragraph 51”;
  - (iii) after sub-paragraph (1)(c) insert—
    - “(d) paragraph 42, paragraph 48 or paragraph 49 of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019.”;
- (b) in paragraph 1(4), in the substituted paragraph 8A(1)(a)—
  - (i) renumber existing sub-paragraph (ii) as (iii);
  - (ii) after sub-paragraph (i), omit “or” and insert—
    - “(ii) paragraph 42 of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019; or”.

#### Commencement Information

**I4** Sch. 1 para. 4 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

## SCHEDULE 2

Regulation 5

## Amendments to the Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019

1. The Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019(13) are amended as follows.

**Commencement Information**

**I5** Sch. 2 para. 1 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

2. In the following places, for “exit day” substitute “IP completion day”—

- (a) regulation 2(3)(b);
- (b) in regulation 3, in the following paragraphs—
  - (i) paragraph (2)(a), in the four places it occurs;
  - (ii) paragraph (2)(b);
  - (iii) paragraph (2)(c);
- (c) in regulation 4, in the following paragraphs—
  - (i) paragraph (2)(a), in both places it occurs;
  - (ii) paragraph (2)(b), in the six places it occurs.

**Commencement Information**

**I6** Sch. 2 para. 2 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

3. After regulation 5 insert—

**“Applications under the Act: Swiss citizens’ rights agreement entitled persons**

**5A.**—(1) In this regulation, “qualifying applicant” has the meaning given by paragraph 51 of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 (qualifications begun before IP completion day – extended period for applications under the Swiss citizens’ rights agreement).

(2) In relation to a qualifying applicant, the Act has effect as if the amendments made by regulation 2 did not apply, and as if—

- (a) in section 2(2)(a), for “, 5A or 5B” there were substituted “or 5A”;
- (b) for the heading to section 5A there were substituted “Registration of Swiss citizens’ rights agreement entitled persons”;
- (c) in section 5A(14)—
  - (i) in subsection (1)—

(13) S.I. 2019/454. Regulation 1(1) provides for the Regulations to come into force on exit day. As a result of the application of paragraph 1 of Schedule 5 to the 2020 Act, regulation 1(1) is to be read instead as providing for the Regulations to come into force on IP completion day.

(14) Section 5A was substituted by S.I. 2008/1824. Relevant amending instruments are S.I. 2013/2985 and 2015/2073.

- (aa) for “Community rights” there were substituted “Swiss citizens’ rights agreement”;
- (bb) in paragraph (a), “European” were omitted;
- (ii) in subsection (3)—
  - (aa) in paragraph (a), “European” were omitted;
  - (bb) in paragraph (c), for “a relevant European State” there were substituted “Switzerland”;
  - (cc) for paragraph (d) there were substituted—
    - “(d) if the person is not a national of the United Kingdom or Switzerland, proof that the person is a Swiss citizens’ rights agreement entitled person;”;
- (iii) in subsection (5), for “a competent authority of a relevant European State” there were substituted “the Swiss competent authority”;
- (iv) in subsection (6)(a)—
  - (aa) “European”, in the first place it occurs, were omitted;
  - (bb) for “that is not the relevant European State in which the evidence of qualification was issued” there were substituted “other than Switzerland”;
- (v) in subsection (7), for “a competent authority in the issuing State” there were substituted “the Swiss competent authority”;
- (vi) in subsection (10), for paragraph (a)(i) there were substituted—
  - “(i) Switzerland; or”;
- (d) section 5B(15) (and the references to it in sections 5ZBA(1)(a), 5BA(1), 6(1)(b)(ii) and (6) and 10(3), and, where it occurs, the word “or” immediately preceding any such reference) were omitted;
- (e) in the heading to section 5BA(16), for “Community rights” there were substituted “Swiss citizens’ rights agreement”;
- (f) in section 5BA, in subsections (1) and (2), for “Community rights”, in both places it occurs, there were substituted “Swiss citizens’ rights agreement”;
- (g) section 5CA(17) (and the references to it in sections 5CD(1) and (2), 5CE(1) and 5D(1), and in the headings to sections 5CD and 5CE(18)) were omitted;
- (h) section 5CB (and the references to it in sections 5CD(1) and (2), 5CE(1) and 5D(1), and in the headings to sections 5CD and 5CE) were omitted;
- (i) in section 27—
  - (i) in the definitions of “[Directive 2005/36/EC](#)” and “the Directive table”, for “amended from time to time” there were substituted “it applied immediately before IP completion day”;
  - (ii) immediately before the definition of “veterinary surgery” there were inserted—
    - ““Swiss citizens’ rights agreement entitled person” means a person within the meaning of paragraph 51 of Schedule 1 to the

(15) Section 5B was substituted by [S.I. 2008/1824](#). The relevant amending instrument is [S.I. 2015/2073](#).

(16) Section 5BA was substituted by [S.I. 2008/1824](#).

(17) Sections 5CA, 5CB, 5CD and 5CE were substituted by [S.I. 2008/1824](#). The relevant amending instrument is [S.I. 2015/2073](#).

(18) Section 5D was inserted by [S.I. 2003/2919](#). Relevant amending instruments are [S.I. 2008/1824](#) and [2015/2073](#).

**Changes to legislation:** There are currently no known outstanding effects for the The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020. (See end of Document for details)

Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 (qualifications begun before IP completion day – extended period for applications under the Swiss citizens’ rights agreement);”;

(j) in Schedule 1A—

(i) for the heading there were substituted “REGISTRATION OF SWISS CITIZENS’ RIGHTS AGREEMENT ENTITLED PERSONS”;

(ii) in paragraphs 1(1), 2(1) and (3), 3(1), and 4, in each place it precedes “veterinary surgeon”, “European” were omitted.”.

**Commencement Information**

**I7** Sch. 2 para. 3 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

SCHEDULE 3

Regulation 7

Amendments to the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019

1. The Architects Act 1997 (Amendment) (EU Exit) Regulations 2019 are amended as follows.

**Commencement Information**

**I8** Sch. 3 para. 1 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

2. In regulation 2, at the appropriate place insert—

““the 2015 Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015(19);”.

**Commencement Information**

**I9** Sch. 3 para. 2 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

3. In regulation 19(a), for “exit day” substitute “IP completion day” in both places it occurs.

**Commencement Information**

**I10** Sch. 3 para. 3 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

4. Part 3 is substituted with Parts 3 and 4, as follows—



## “PART 3

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

#### Part 2 of the Register

**22.**—(1) This regulation applies where, before exit day, a visiting practitioner<sup>(20)</sup> 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.

#### 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.

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

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(20) “Visiting practitioner” is defined in paragraph 2(1)(a) of Schedule 1A to the 1997 Act.

**Changes to legislation:** There are currently no known outstanding effects for the *The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020*. (See end of Document for details)

(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<sup>(21)</sup>”.

(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.

#### **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<sup>(22)</sup> 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.

**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”.

**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

<sup>(21)</sup> 2019 c. 12. Section 3(9) was amended by S.I. 2019/419.

<sup>(22)</sup> See section 39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1) for the definition of “EEA EFTA separation agreement”.

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”.

### **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.

**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;”.

**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.

**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.

**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.

## PART 4

### Swiss citizens' rights agreement

#### **Temporary and occasional provision of services - additional rights under the Swiss citizens' rights agreement**

**33.** In this Part—

- (a) a “relevant applicant” means an individual—
  - (i) who provides services as an architect in the United Kingdom on a temporary and occasional basis on the basis of a written contract which was concluded, and the performance of which started, before IP completion day;
  - (ii) who began providing the services described in sub-paragraph (i) either—
    - (aa) before IP completion day, in an employed or self-employed capacity; or
    - (bb) 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;
  - (iii) 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 State for the purposes of access to and pursuit of the profession of architect; and
  - (iv) who is legally established in Switzerland for the purpose of pursuing the same profession there; and
- (b) “third country” and “same profession” have the meanings in regulation 2(1) of the European Communities (Recognition of Professional Qualifications) Regulations 2007(23) as they had effect immediately before IP completion day.

#### **Qualifications begun before IP completion day – extended period for recognition under Swiss citizens' rights agreement**

**34.—(1)** For the purposes of this Part, a “qualifying applicant” means an individual who—

- (a) 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 State, for the purposes of access to and pursuit of a regulated profession;
- (b) wishes to access and pursue the profession of architect in the United Kingdom on a permanent basis, whether in an employed or self-employed capacity;
- (c) has obtained a relevant qualification;
- (d) if that relevant qualification was obtained in a third country, has three years' professional experience in the profession concerned in the territory of Switzerland and certified by a competent authority in Switzerland; and

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(23) S.I. 2007/2781, revoked by S.I. 2015/2059 and 2019/312 subject to savings.

- (e) if that relevant qualification is a professional qualification obtained in an EEA State, is legally established in Switzerland, unless the individual is a Swiss national.
- (2) In paragraph (1), “relevant qualification” means —
- (a) a professional qualification obtained in an EEA State or Switzerland before IP completion day;
  - (b) a professional qualification started in an EEA State or Switzerland before IP completion day but completed after IP completion day;
  - (c) a third country professional qualification recognised by a competent authority in Switzerland pursuant to Article 2(2) of [Directive 2005/36/EC](#) before IP completion day;
  - (d) a third country professional qualification for which an application for recognition pursuant to Article 2(2) of [Directive 2005/36/EC](#) has been submitted to a competent authority in Switzerland before IP completion day, where that application is successful after IP completion day.
- (3) In paragraph (2)—
- “[Directive 2005/36/EC](#)” 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;
- “professional qualification” means qualification for the purposes of sections 4 (registration in Part 1 of the Register: general) or 4A (registration in Part 1 of the Register: European qualifications) of the 1997 Act.

### **Further provisions relating to the Swiss citizens’ rights agreement**

**35.**—(1) In dealing with a relevant applicant who provides services in the United Kingdom, the Board must treat the person no less favourably than it would treat a national of the United Kingdom making an application, providing services as an architect, or pursuing that same profession in the United Kingdom.

(2) Where an individual is providing services on a temporary and occasional basis in Switzerland pursuant to Article 23 of the Swiss citizens’ rights agreement<sup>(24)</sup>, the Board must cooperate with the appropriate competent authority in Switzerland in accordance with section 5D of the 1997 Act (administrative co-operation with other relevant European States) as modified by regulation 40.

(3) Where an individual has made or makes an application falling within Article 31(1) or Article 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 Board must cooperate with and provide information to the competent authority or contact point in Switzerland, or the individual (as the case may be), in accordance with section 22B of the 1997 Act (administrative co-operation).

(4) Competent authorities must exchange information for the purposes of sub-paragraphs (2) and (3) in accordance with data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018.

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<sup>(24)</sup> See section 39(1) of the European Union (Withdrawal Agreement) Act 2020 for the definition of “Swiss citizens’ rights agreement”.

### **Attestations of competence**

**36.**—(1) The Board must permit access to or pursuit of the profession of architect to a qualifying applicant under the same conditions as apply to a UK applicant, where the qualifying applicant—

- (a) possesses the attestation of competence or evidence of formal qualifications required by Switzerland, in order to gain access to and pursue that same profession in Switzerland, or
- (b) has pursued that same profession on a full time basis for one year or for an equivalent overall duration on a part-time basis during the previous ten years in a relevant European State which does not regulate that profession, provided that the applicant possesses one or more attestations of competence or documents providing evidence of formal qualifications issued by that other State which does not regulate that profession.

(2) Attestations of competence or evidence of formal qualifications must satisfy the following conditions—

- (a) they must have been issued by a competent authority of a relevant European State;
- (b) where paragraph (1)(b) applies, they must also attest that the applicant has been prepared for the pursuit of the profession in question.

(3) The Board must not require the one year of professional experience referred to in paragraph (1)(b) if the evidence of formal qualifications which the applicant possesses certifies regulated education and training.

(4) For an attestation issued under regulation 27 of the 2015 Regulations for a qualifying applicant—

- (a) the Board must accept the level attested under regulation 27 by a competent authority in Switzerland as well as the certificate by which a competent authority in Switzerland certifies that regulated education and training or vocational training with a special structure referred to in regulation 27(c)(ii) is equivalent to the level provided for in regulation 27(c)(i); and
- (b) the Board may refuse access to and pursuit of the profession of architect where access to that profession is contingent in the United Kingdom on possession of a qualification set out in regulation 27(e) of the 2015 Regulations and where the applicant possesses an attestation of competence classified under regulation 27(a) of those Regulations.

### **Transitional provision**

**37.**—(1) This regulation and regulations 38 to 47 apply to —

- (a) a relevant applicant for the purposes of regulation 33;
- (b) a qualifying applicant for the purposes of regulation 34.

(2) Subject to paragraph (3)—

- (a) the provisions of the 1997 Act continue to apply on and after IP completion day in relation to a relevant applicant as they had effect immediately before IP completion day, but subject to the modifications specified in regulations 39 to 47, until—

- (i) the end of the period of five years beginning with IP completion day; or

- (ii) where the period referred to in paragraph (i) is extended in accordance with Article 23(2) of the Swiss citizens' rights agreement, the end of that period as extended;
  - (b) the provisions of the 1997 Act continue to apply to a qualifying applicant on and after IP completion day as they had effect immediately before IP completion day without the amendments made by Part 2 of these Regulations, but subject to the modifications specified in regulations 39 to 47, in relation to—
    - (i) the application concerned; and
    - (ii) any appeal made under section 22 of the 1997 Act against a decision under that Act in relation to that application.
- (3) The provisions of the 1997 Act mentioned in regulations 39 to 47 cease to have effect in relation to a qualifying applicant at the end of the period of four years beginning with IP completion day unless—
  - (a) the qualifying applicant is registered under section 4(2A) of the 1997 Act immediately before the end of that period;
  - (b) the qualifying applicant had applied before the end of that period for registration under section 4(2A) of the 1997 Act and—
    - (i) that application had not been decided before the end of that period;
    - (ii) the application had been refused by the Registrar 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 refused by the Registrar but an appeal against that decision was not made within that period;
  - (c) the qualifying applicant's registration as a registered architect was suspended before the end of the period of four years beginning with IP completion day and that suspension does not end within that period; or
  - (d) the qualifying applicant's name was not re-entered or the qualifying applicant's name was removed from the Register by the Board before the end of the period of four years beginning with IP completion day and—
    - (i) an appeal against that decision of the Board had not been finally determined or withdrawn before the end of that period; or
    - (ii) an appeal against that decision of the Board was not made within that period.
- 38.** Where a provision of the 1997 Act continues to apply by virtue of regulation 37, that provision has effect with the modifications in regulations 39 to 47.
- 39.** Section 4A (registration in Part 1 of the Register: European qualifications) of the 1997 Act has effect as if—
  - (a) in subsection (1)(e) "other" were omitted;
  - (b) in subsection (2)(b) "other" were omitted; and
  - (c) in subsection (2)(c) for "another" there were substituted "a".
- 40.** 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".
- 41.** Section 5E (complaints by recipients of services) of the 1997 Act has effect as if—

**Changes to legislation:** There are currently no known outstanding effects for the The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020. (See end of Document for details)

- (a) in subsection (1), for the words from “, in any relevant European State” to the end there were substituted “in the United Kingdom, apart from when the person is lawfully established as an architect in the United Kingdom.”;
  - (b) in subsection (2) 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”.
- 42.** 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 the competent authorities of Switzerland, and
      - (b) provide assistance to the competent authorities of Switzerland 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 may exchange professional-regulation information 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 about—
      - (a) persons who have made an application for registration under section 4(2A);
      - (b) registered persons who are practising or are seeking to practise as architects in Switzerland.”;
  - (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”.
- 43.** 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)—
      - (aa) in sub-paragraph (i), for “another” there were substituted “a”;
      - (bb) in sub-paragraph (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 in Switzerland.”.
- 44.** Section 25 (interpretation) of the 1997 Act has effect as if there were inserted at the appropriate place—
- ““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;”.



**Changes to legislation:** There are currently no known outstanding effects for the The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020. (See end of Document for details)

**45.** 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) to the 1997 Act has effect as if the words “that is not the United Kingdom” were omitted.

**46.** Any reference to a relevant European State other than the United Kingdom in the 1997 Act has effect as if the words “other than the United Kingdom” were omitted.

**47.** Any reference to the 2015 Regulations in the 1997 Act 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** Sch. 3 para. 4 in force at 31.12.2020 immediately before IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

**Changes to legislation:**

There are currently no known outstanding effects for the The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020.