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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

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

**PART 2**

**Amendments to the European Qualifications (Health and Social  
Care Professions) (Amendment etc.) (EU Exit) Regulations 2019**

**Amendments to Part 2 of Schedule 5 (opticians)**

- 13.**—(1) Part 2 of Schedule 5 is amended as follows.
- (2) In paragraph 25, for “exit day” substitute “IP completion day”.
- (3) After paragraph 25, insert—

**“Swiss opticians and optometrists qualifying outside the United Kingdom: saving of old law**

**25A.**—(1) Where a registration application is received from a Swiss optician before the end of the Swiss recognition period, any provision made by or under the 1989 Act<sup>(1)</sup> continues to apply in relation to the application (including any appeal arising from it) without the amendments that Part 1 of this Schedule makes to the establishment provisions (but subject to the modifications to the 1989 Act and the General Optical Council (Registration) Rules 2005<sup>(2)</sup> specified in sub-paragraphs (3) and (4)).

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

- (a) the 1989 Act (other than sections 8B to 8D, 10(1)(c) and (1ZA), 10A(11), 11A(5) to (7), 11B(1A) to (1C) and 29(2A) and paragraph 1A(1)(b)(ii) of Schedule 1);
- (b) the General Optical Council Testing of Sight by Persons Training as Ophthalmic Opticians Rules 1993<sup>(3)</sup>;
- (c) the General Optical Council (Registration) Rules 2005 (other than rules 2(1A), 21A and 21B).
- (3) The modifications to the 1989 Act mentioned in sub-paragraph (1) are—
- (a) section 8(1A)(a)<sup>(4)</sup> is to be read as if for “an exempt person” there were substituted “a Swiss optician”;

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(1) “The 1989 Act” is defined in paragraph 1 of Schedule 5 to [S.I. 2019/593](#).

(2) As set out in the Schedule to the General Optical Council (Registration Rules) Order of Council 2005 ([S.I. 2005/1478](#)); as amended by [S.I. 2007/3101](#). Relevant amending instrument is [S.I. 2007/3101](#).

(3) As set out in the Schedule to the General Optical Council (Testing of Sight by Persons Training as Ophthalmic Opticians Rules) Order of Council 1994 ([S.I. 1994/70](#)). Relevant amending instrument is [S.I. 2007/3101](#).

(4) Subsection (1A) was inserted by [S.I. 2005/848](#). Relevant amending instrument is [S.I. 2007/3101](#).

(b) section 36(5) is to be read as if, in the definition of “General Systems Regulations”, at the end, there were inserted “as (and only to the extent that) they have effect, after IP completion day, in relation to an entitlement which arises in relation to a relevant qualification (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”.

(4) The modifications to the General Optical Council (Registration) Rules 2005 mentioned in sub-paragraph (1) are—

- (a) rule 12(2)(b)(ii) is to be read as if for “a relevant European State, other than the United Kingdom” there were substituted “a competent authority in Switzerland, pursuant to Article 2(2) of the Directive”;
- (b) rule 13(2)(a) is to be read as if for “a relevant European State other than the United Kingdom” there were substituted “a competent authority in Switzerland pursuant to Article 2(2) of the Directive”.

(5) In this paragraph—

“registration application” means an application for registration in the register of optometrists or the register of dispensing opticians kept under section 7 of the 1989 Act; “Swiss optician” means a qualifying applicant who had not, before IP completion day, made a registration application in respect of registration in the register in which the applicant wishes to be registered on or after IP completion day.”.

(4) In paragraph 26—

- (a) in the heading, for “one year” substitute “five years”;
- (b) in sub-paragraph (1)—
  - (i) in paragraphs (a) and (b), for “exit day” substitute “IP completion day”;
  - (ii) in the words following paragraph (b), after “states” insert “(but subject, in the case of a relevant applicant, to the modifications to the 1989 Act specified in sub-paragraph (4))”;
- (c) after sub-paragraph (1), insert—
 

“(1A) But a relevant applicant in relation to whom sub-paragraph (1) applies may not provide services as an optometrist or a dispensing optician (as the case may be) for a period exceeding 90 days in total in any calendar year.”;
- (d) after sub-paragraph (2), insert—
 

“(2A) Sub-paragraph (2) does not apply in the case of a Swiss visiting optician.

(2B) But a Swiss visiting optician’s entitlement does not continue (or further continue) under sections 8C or 8D of the 1989 Act on or after the end of the visiting practitioner transitional period.

(2C) In this paragraph, “Swiss visiting optician” means a visiting optometrist or dispensing optician who—

  - (a) is a national of the United Kingdom or is a Swiss national, or
  - (b) is a third country national, who was, immediately before IP completion day, by virtue of an enforceable EU right entitled to be treated, for the purposes of access to and pursuit of the profession of optometrist or dispensing optician, no less favourably than a national of the United Kingdom or Switzerland.”;
- (e) after sub-paragraph (3), insert—

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(5) The definition of “General Systems Regulations” was substituted by [S.I. 2016/1030](#).

- “(4) The modifications to the 1989 Act mentioned in sub-paragraph (1) are—
- (a) section 8C(6) is to be read as if in subsection (1)—
    - (i) for “an exempt person” there were substituted “a relevant applicant (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019”;
    - (ii) for “a relevant European State other than the United Kingdom” there were substituted “Switzerland”;
  - (b) section 8D(7) is to be read as if in subsection (1)—
    - (i) for “an exempt person” there were substituted “a relevant applicant (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019”;
    - (ii) for “a relevant European State other than the United Kingdom” there were substituted “Switzerland”;
  - (c) section 11A(8) is to be read as if in subsection (7), for the words from “the relevant” to the end there were substituted “Switzerland”;
  - (d) section 11B(9) is to be read as if in subsection (1C), for the words from “the relevant” to the end there were substituted “Switzerland”.
- (5) In paragraph 27(1), for “exit day” substitute “IP completion day”.
- (6) In paragraph 28—
- (a) in sub-paragraph (a)(i), (ii) and (iii), in each place it occurs, for “exit day” substitute “IP completion day”;
  - (b) in sub-paragraph (a)(iii), after ““General Systems Regulations”” insert “(other than in that definition as it is saved by paragraph 25A)”.

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(6) Section 8C was inserted by S.I. 2007/3101. Relevant amending instrument is S.I. 2016/1030.

(7) Section 8D was inserted by S.I. 2007/3101. Relevant amending instrument is S.I. 2016/1030.

(8) Section 11A was inserted by S.I. 2005/848. Relevant amending instrument is S.I. 2007/3101.

(9) Section 11B was inserted by S.I. 2005/848. Relevant amending instrument is S.I. 2007/3101.