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STATUTORY INSTRUMENTS

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**2020 No. 1394**

**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**

**Insertion of general interpretation provision**

3. After regulation 1 (citation, commencement and extent), insert—

**“Interpretation**

**1A.—(1)** In these Regulations—

“the 2017 Act” means the Children and Social Work Act 2017<sup>(1)</sup>;

“the 2007 Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007<sup>(2)</sup>;

“the Directive” 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;

“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;

“existing contract” means a written contract which was concluded, and the performance of which started, before IP completion day;

“qualifying applicant” means an individual—

- (a) who is a national of the United Kingdom or Switzerland, or a third country national who was, immediately before IP completion day, by virtue of any enforceable EU right entitled to be treated no less favourably than a national of either the United Kingdom or Switzerland for the purposes of access to and pursuit of a regulated profession,
- (b) who 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) who has obtained a relevant qualification,

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(1) 2017 c. 16.

(2) [S.I. 2007/2781](#). [S.I. 2007/2781](#) was revoked by [S.I. 2015/2059](#), but continued to apply (in relation to Swiss nationals) before IP completion day by virtue of regulation 78 of [S.I. 2015/2059](#) and regulation 155 of [S.I. 2016/1030](#). A relevant amending instrument is [S.I. 2020/1038](#).

- (d) who, 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 Swiss competent authority, and
- (e) who, 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;

“relevant applicant” means an individual—

- (a) who provides services in a regulated profession in the United Kingdom on a temporary and occasional basis on the basis of an existing contract,
- (b) who began providing, or begins to provide, the services mentioned in paragraph (a), either—
  - (i) before IP completion day, in an employed or self-employed capacity, or
  - (ii) on or after IP completion day, as an employee posted for the purpose of carrying on professional activities in the United Kingdom by their employer who is established in the United Kingdom or Switzerland,
- (c) who is a national of the United Kingdom or Switzerland, or a third country national, who was, immediately before IP completion day, by virtue of any enforceable EU right entitled to be treated no less favourably than a national of either the United Kingdom or Switzerland for the purposes of access to and pursuit of a regulated profession,
- (d) who is legally established in Switzerland for the purpose of pursuing the same profession there, and
- (e) who, if neither the regulated profession the individual wishes to access and pursue in the United Kingdom nor the education and training leading to it is regulated in Switzerland, has pursued that profession in Switzerland for at least two years during the ten years preceding the provision of services;

“relevant European State” means an EEA State or Switzerland;

“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 but not completed before 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;

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

“Swiss applicant” means a person who is—

- (a) a national of the United Kingdom,
- (b) a national of Switzerland, or
- (c) a third country national, who was, immediately before IP completion day, by virtue of an enforceable EU right entitled to be treated, for the purposes of access

to and pursuit of a particular profession, no less favourably than a national of either of those states;

“Swiss recognition period” means the period of four years beginning with the day immediately after IP completion day;

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

“visiting practitioner transitional period” means—

- (a) the period of five years beginning with IP completion day, or
- (b) if the period in sub-paragraph (a) is extended in accordance with Article 23(2) of the Swiss citizens’ rights agreement<sup>(3)</sup>, that period as extended.”.

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(3) The Swiss citizens’ rights agreement has the meaning given in section 39(1) of the 2020 Act.