

2019 No. 375

EXITING THE EUROPEAN UNION

LEGAL PROFESSION, ENGLAND AND WALES

LEGAL PROFESSION, NORTHERN IRELAND

**The Services of Lawyers and Lawyer's Practice (Revocation
etc.) (EU Exit) Regulations 2019**

Made - - - - - *13th February 2019*

Coming into force in accordance with regulation 1

The Lord Chancellor, in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a), makes the following Regulations.

In accordance with paragraph 1(3) of Schedule 7 to that Act a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Preliminary

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 2019 and, subject to paragraph (2), come into force on exit day.

(2) Paragraphs 8(2) and (4), 13(2), (4), (7)(a), (c) and (e), (8)(a) and (c) and (9)(a) and 15(2) and (4) of the Schedule come into force at the end of the transitional period.

(3) These Regulations extend to England and Wales and Northern Ireland.

Interpretation

2. In these Regulations—

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

(a) 2018 c. 16.

(b) S.I. 1978/1910, amended by S.I. 1981/228 (N.I. 8), 2003/435 (N.I. 10), 2004/1117, 2008/81 and 2013/1605.

“the 2000 Regulations” means the European Communities (Lawyer’s Practice) Regulations 2000(a);

“the end of the transitional period” means 11.00 p.m. on 31 December 2020 (and references to anything happening before, after or at the end of the transitional period are to be read accordingly).

PART 2

Revocation of secondary legislation

Revocation

3. The following are revoked—

- (a) the 1978 Order;
- (b) the 2000 Regulations.

PART 3

Transitional provision and consequential amendments

Transitional provision: the 1978 Order

4.—(1) This regulation applies where—

- (a) a complaint was made under article 15(1) of the 1978 Order (professional misconduct) before exit day; and
- (b) one of the following applies—
 - (i) the disciplinary authority had not adjudicated upon the complaint before exit day;
 - (ii) the disciplinary authority had adjudicated upon the complaint and an appeal had been made against that adjudication before exit day, but the appeal had not been finally determined or withdrawn before exit day; or
 - (iii) the disciplinary authority had adjudicated upon the complaint before exit day but an appeal against that adjudication was not made until on or after exit 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, have been finally determined or withdrawn.

Transitional provisions: the 2000 Regulations

5.—(1) This regulation applies where—

- (a) an individual was a registered European lawyer immediately before exit day;
- (b) an individual made before exit day an application for registration under regulation 16 of the 2000 Regulations (application to be entered on a register) and—
 - (i) that application had not been decided before exit day;
 - (ii) the application had been rejected, or deemed to be rejected, under regulation 19 of the 2000 Regulations (time limit for decision and notification by professional body)

(a) S.I. 2000/1119, amended 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 and 2015/2059.

and an appeal against that decision had not been finally determined or withdrawn before exit day; or

- (iii) the application had been rejected, or deemed to be rejected, under regulation 19 of the 2000 Regulations before exit day but an appeal against that decision was not made until on or after exit day;
- (c) an individual's registration as a registered European lawyer was suspended before exit day and—
 - (i) that suspension does not end until on or after exit day;
 - (ii) an application to terminate that suspension or an appeal against that suspension had not been finally determined or withdrawn before exit day;
 - (iii) an appeal against any determination of an application to terminate that suspension had not been finally determined or withdrawn before exit day;
 - (iv) an appeal against that suspension was not made until on or after exit day; or
 - (v) any appeal against any determination of an application to terminate that suspension was not made until on or after exit day;
- (d) an individual's registration as a registered European lawyer was withdrawn or revoked before exit day by the professional body with whom that individual had been registered and—
 - (i) an appeal against that withdrawal or revocation had not been finally determined or withdrawn before exit day; or
 - (ii) an appeal against that withdrawal or revocation was not made until on or after exit day.

(2) The provisions of the 2000 Regulations mentioned in paragraph (3) continue to have effect in relation to an individual referred to in paragraph (1) until immediately before the end of the transitional period, as if not revoked by regulation 3 but subject to any modifications specified in paragraph (3).

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

- (a) regulation 2 (interpretation), modified so that paragraph (1) has effect as if—
 - (i) in the definition of “competent authority”, “to undertake the activities required by the Directive set out in that regulation” were omitted; and
 - (ii) the definition of “Qualifications Regulations” were omitted;
- (b) regulation 3 (purpose of regulations), modified so that it has effect as if paragraphs (1) and (3) were omitted;
- (c) regulation 4 (competent authorities);
- (d) regulation 5(1) and (2) (exchange of information), but paragraph (1) modified so that it has effect as if for “In order to facilitate the application of the Directive and to prevent its provisions from being misapplied, a professional body” there were substituted “A professional body”;
- (e) regulations 6 to 9 (practice of professional activities, title to be used and joint practice);
- (f) regulation 10 (notification of joint practice), modified so that it has effect as if the reference to “with which he intends to register” were a reference to “with which he has applied for registration”;
- (g) regulations 11 to 20 (representation in legal proceedings, property transactions, probate, legal aid and registration);
- (h) regulations 23 to 27 (evidence of registration and regulation and discipline);
- (i) regulation 29 (application by registered European lawyer), modified so that paragraph (1) has effect as if “under regulation 34(a) of the Qualifications Regulations” were omitted;
- (j) regulations 30 to 37 (applications for exemption, practice under title of solicitor or barrister and modification of enactments);

(k) Schedules 1 to 5.

(4) In this regulation and regulation 6 “registered European lawyer” has the same meaning as in regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day.

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

6.—(1) Regulation 21 of the 2000 Regulations (offence of pretending to be a registered European lawyer) (and regulations 2 and 17 of those Regulations as they apply to regulation 21) continues to have effect until immediately before the end of the transitional period 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

7.—(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—

(a) before exit day, in relation to an individual who—

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

(ii) is not an individual in relation to whom regulation 5 applies, and those proceedings have not been determined before exit day;

(b) before the end of the transitional period, in relation to an individual who is on or after exit day an individual registered under regulation 17 of the 2000 Regulations (registration by professional body), as that regulation has effect by virtue of regulation 5 of these Regulations, and those proceedings have not been determined before the end of the transitional period.

(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—

(a) before exit day, in relation to an individual who—

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

(ii) is not an individual in relation to whom regulation 5 applies;

(b) before the end of the transitional period, in relation to an individual who is on or after exit day an individual registered under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations.

(4) The third situation is where the time limit for bringing an appeal against the determination of disciplinary proceedings commenced by an appropriate authority has not yet expired—

(a) before exit day, in relation to an individual who—

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

(ii) is not an individual in relation to whom regulation 5 applies;

(b) before the end of the transitional period, in relation to an individual who is on or after exit day an individual registered under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations.

(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 26 (disciplinary proceedings applicable), 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 “he 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”;
- (b) regulation 27(1)(c) (disciplinary proceedings brought against a registered European lawyer), modified so that it has effect as if reference to “that authority” were a reference to “the competent authority in his home State”;
- (c) regulation 27(4);
- (d) regulation 37(3) and (4) (modification of enactments) in so far as it applies to subparagraphs (e) and (f) of this paragraph;
- (e) Schedule 4, paragraphs 7(2), 10 and 24; and
- (f) Schedule 5, paragraph 3.

(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 exit day.

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

8.—(1) This regulation applies where an application under regulation 29 of the 2000 Regulations (as that regulation has effect by virtue of regulation 5 of these Regulations) for an exemption from a requirement to pass an aptitude test is made before the end of the transitional period and—

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

(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 30 (decision by professional body), modified so that it has effect as if paragraph (2) were omitted;
- (b) regulation 31 (evidence in support of application for exemption under regulation 29(2));
- (c) regulation 32 (evidence in support of application for exemption under regulation 29(3)), 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 he was registered”;
- (d) regulation 33 (meaning of “effectively and regularly pursued”);
- (e) regulation 34 (time limit for decision and notification by professional body);
- (f) regulation 35 (appeal);

- (g) regulation 36 (practice under the title of solicitor or barrister), modified so that it has effect as if paragraphs (4) and (5) were omitted;
- (h) regulation 37(3) and (4) (modification of enactments);
- (i) Schedule 1;
- (j) Schedule 4, paragraph 1(1); and
- (k) Schedule 5, paragraph 1(2) as it applies to article 6 of the Solicitors (Northern Ireland) Order 1976(a).

(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.

Consequential amendments and further transitional provision

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

13th February 2019

Lucy Frazer
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Regulation 9

Consequential amendments and further transitional provision

PART 1

Primary legislation

Solicitors Act 1974

1.—(1) The provisions of the Solicitors Act 1974(b) mentioned in sub-paragraph (2) continue to have effect as applied by regulation 37(3) of, and Schedule 4 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an individual who—
 - (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day), registered with the Law Society, at a time before exit day, but
 - (ii) is not an individual in relation to whom regulation 5 applies; and

(a) S.I. 1976/582 (N.I. 12), amended by S.I. 1989/1343 (N.I. 14).

(b) 1974 c. 47, amended by section 154 of, and Schedule 7, paragraph 132 to, the Magistrates’ Courts Act 1980 (c. 43), sections 147 and 152 of, and Schedule 7 to, the Senior Courts Act 1981 (c. 54), section 56(b) of the Administration of Justice Act 1982 (c. 53), sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), sections 8, 44, 67 and 69(5) of, and Schedule 1, paragraph 10, Schedule 7, paragraphs 5 and 6, Schedule 8, Part 3 and Schedule 9, paragraph 9 to, the Administration of Justice Act 1985 (c. 61), section 45 of, and Schedule 5, paragraph 19 to, the Legal Aid Act 1988 (c. 34), sections 92 and 125 of, and Schedule 18, paragraphs 14 and 15 and Schedule 20 to, the Courts and Legal Services Act 1990 (c. 41), sections 48 and 106 of, and Schedule 7, paragraphs 7 and 9 and Schedule 15, Part 1 to, the Access to Justice Act 1999 (c. 22), section 165 of, and Schedule 9, paragraph 46 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 59(5) of, and Schedule 11, Part 4, paragraph 21 to, the Constitutional Reform Act 2005 (c. 4), sections 177 and 210 of, and Schedule 16, Part 1, paragraphs 37, 38, 41, 42, 46, 47, 49, 50 and 51 and Schedule 23 to, the Legal Services Act 2007 (c. 29), section 39 of, and Schedule 5, Part 1, paragraphs 7 to 9 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and S.I. 2015/401. There are other amending instruments not relevant to these Regulations.

- (b) at or after the end of the transitional period, in relation to an individual who is on or after exit day an individual registered with the Law Society under regulation 17 of the 2000 Regulations (registration by professional body), as that regulation has effect by virtue of regulation 5 of these Regulations,

as those provisions had effect before exit day in relation to an individual who had ceased to be registered with the Law Society under regulation 17 of the 2000 Regulations.

(2) The provisions referred to in sub-paragraph (1) are—

- (a) section 36 (compensation grants);
- (b) section 37 (professional indemnity);
- (c) section 41 (employment by solicitor of person struck off or suspended);
- (d) section 42 (failure to disclose fact of having been struck off or suspended);
- (e) section 43 (control of solicitors' employees and consultants);
- (f) section 44D (disciplinary powers of the Law Society);
- (g) section 44E (appeals against disciplinary action under section 44D);
- (h) section 46(9)(b), (10)(a) and (b), (11) and (12) (Solicitors Disciplinary Tribunal), as it has effect by virtue of section 44E(2);
- (i) section 46(10)(c) (Solicitors Disciplinary Tribunal);
- (j) section 47(1)(b) and (c), (2)(c), (d) and (i), (2A) to (2H), (3), (3A) to (3C) (jurisdiction and powers of Tribunal);
- (k) section 48(2)(b) and (3) to (5) (orders of Tribunal);
- (l) section 49 (appeals from Tribunal);
- (m) section 50(2) and (3) (jurisdiction of Senior Courts over solicitors);
- (n) section 51 (procedure upon certain applications to High Court);
- (o) section 52 (power of Society to draw up order of court).

Solicitors (Northern Ireland) Order 1976

2.—(1) The provisions of the Solicitors (Northern Ireland) Order 1976(a) mentioned in sub-paragraph (2) continue to have effect as applied by regulation 37(4) of, and Schedule 5 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an individual who—
 - (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day) registered with the Law Society of Northern Ireland at a time before exit day, but
 - (ii) is not an individual in relation to whom regulation 5 applies; and
- (b) at or after the end of the transitional period, in relation to an individual who is on or after exit day an individual registered with the Law Society of Northern Ireland under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations,

as those provisions had effect before exit day in relation to an individual who had ceased to be registered with the Law Society of Northern Ireland under regulation 17 of the 2000 Regulations.

(2) The provisions referred to in sub-paragraph (1) are—

- (a) article 29 (employment by a solicitor of persons whose name have been struck off the roll etc.);
- (b) article 41A (power of Council to impose sanctions for inadequate professional services);

(a) S.I. 1976/582 (N.I. 12), amended by sections 59 and 148 of, and Schedule 11, paragraph 6 to, the Constitutional Reform Act 2005, S.I. 1989/1343 (N.I. 14), 2003/435 (N.I. 10), 2009/1604, S.R. 2015 No. 159, 2015 No. 914 and 2016 No. 108.

- (c) article 42(1)(b) and (5A) (lay observers);
- (d) article 44(1)(e) to (h) and (2) to (3) (applications and complaints to Tribunal);
- (e) articles 46 to 50 (applications to the Tribunal);
- (f) article 51(1)(a), (b) and (j) to (l), (2), (3), (5) to (9) and (11) to (12) (orders of Tribunal on inquiry);
- (g) article 51A (power of Tribunal to impose sanctions for inadequate professional services);
- (h) article 52(1), (2), (4) and (6) to (8) (effect, notice and recording of orders of Disciplinary Committee);
- (i) article 53(2) to (6) (appeals against orders of the Tribunal);
- (j) article 54 (publication, etc., of orders);
- (k) articles 56 to 63 (compensation fund and professional indemnity).

Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979

3. In Part IV of Schedule 1 to the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(a), in the definition of “European lawyer” after “2000” insert “, as those Regulations have effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.

County Courts (Northern Ireland) Order 1980

4. Omit article 50(2) of the County Courts (Northern Ireland) Order 1980 (right of audience)(b).

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981

5. Omit article 2(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (interpretation)(c).

Magistrates’ Courts (Northern Ireland) Order 1981

6. Omit article 164(3) of the Magistrates’ Courts (Northern Ireland) Order 1981 (appearance by counsel or solicitor)(d).

County Courts Act 1984

7. Section 142 of the County Courts Act 1984 (power to enforce undertakings of solicitors)(e) continues to have effect as applied by regulation 37(3) of, and Schedule 4 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an undertaking given before exit day by an individual who—
 - (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day), registered with the Law Society, at a time before exit day, but
 - (ii) is not an individual in relation to whom regulation 5 applies; and
- (b) at or after the end of the transitional period, in relation to an undertaking given before the end of the transitional period by an individual who is on or after exit day an individual

(a) S.I. 1979/195, amended by S.I. 2003/355. There are other amending instruments but none are relevant to these Regulations.
 (b) S.I. 1980/397 (N.I. 3), to which there are amendments not relevant to these Regulations.
 (c) S.I. 1981/228 (N.I. 8), to which there are amendments not relevant to these Regulations.
 (d) S.I. 1981/1675 (N.I. 26), to which there are amendments not relevant to these Regulations.
 (e) 1984 c. 28. Section 142 was amended by section 17(5) of, and Schedule 9, paragraph 10(1)(a) to, the Crime and Courts Act 2013 (c. 22).

registered with the Law Society under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations,

as it had effect before exit day in relation to an undertaking given by an individual who ceased afterwards to be registered with the Law Society under regulation 17 of the 2000 Regulations.

Administration of Justice Act 1985

8.—(1) The Administration of Justice Act 1985(a) is amended as follows.

(2) In section 9 (recognition of legal services bodies and of sole solicitors' practices)(b)—

- (a) in subsection (1B)(b), omit “or registered European lawyers”; and
- (b) in subsection (8), omit the definition of “registered European lawyer”.

(3) Until sub-paragraph (2) comes into force, section 9(8) has effect as if, in the definition of “registered European lawyer”, after “2000” there were added “, as that regulation has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.

(4) In section 9A (legal services bodies)(c)—

- (a) in subsection (6)—
 - (i) for paragraph (c) substitute—
“(c) an advocate or solicitor in Scotland;
 - (ca) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland;”;
 - (ii) in paragraph (d)(ii), for “paragraphs (a) to (c)” substitute “paragraphs (a) to (ca)”;
 - (iii) in paragraph (e), for “paragraphs (a) to (c)” substitute “paragraphs (a) to (ca)”;
- (b) in subsection (8), omit the definition of “the Directive”.

(5) Until sub-paragraph (4) comes into force, section 9A(6) has effect as if—

- (a) after paragraph (c) there were inserted—
 - “(ca) an advocate or solicitor in Scotland;
 - (cb) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland;”;
- (b) in paragraph (d)(ii), for “paragraphs (a) to (c)” there were substituted “paragraphs (a) to (cb)”;
- (c) in paragraph (e), for “paragraphs (a) to (c)” there were substituted “paragraphs (a) to (cb)”.

9. Section 43 of the Administration of Justice Act 1985 (jurisdiction and powers of Solicitors Disciplinary Tribunal in relation to complaints about solicitors)(d) continues to have effect as applied by regulation 37(3) of, and Schedule 4 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an individual who—

(a) 1985 c. 61.
(b) The heading to section 9 was amended by S.I. 2015/401. Section 9 was amended by section 177(b) of, and Schedule 16, Part 2, paragraph 81(3) to, the Legal Services Act 2007 and amended by S.I. 2000/1119 and 2015/401. There are other amending instruments not relevant to these Regulations.
(c) Section 9A was inserted by section 177(b) of, and Schedule 16, Part 2, paragraph 82 to, the Legal Services Act 2007 and amended by S.I. 2008/3074.
(d) Section 43 was amended by sections 24 and 106 of, and Schedule 4, paragraph 36 and Schedule 15, Part 1 to, the Access to Justice Act 1999, section 177(b) of, and Schedule 16, Part 2, paragraph 84 to, the Legal Services Act 2007 and section 39(1) of, and Schedule 5, Part 1, paragraph 31 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

- (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day), registered with the Law Society, at a time before exit day, but
 - (ii) is not an individual in relation to whom regulation 5 applies; and
- (b) at or after the end of the transitional period, in relation to an individual who is on or after exit day an individual registered with the Law Society under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations,

as it had effect before exit day in relation to an individual who had ceased to be registered with the Law Society under regulation 17 of the 2000 Regulations.

10. Paragraphs 14B and 14C of Schedule 2 to the Administration of Justice Act 1985 (disciplinary powers of the Law Society)(a) continue to have effect as applied by regulation 37(3) of, and Schedule 4 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an individual who—
 - (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day), registered with the Law Society, at a time before exit day, but
 - (ii) is not an individual to whom regulation 5 applies; and
- (b) at or after the end of the transitional period, in relation to an individual who is on or after exit day an individual registered with the Law Society under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations,

as those paragraphs had effect before exit day in relation to an individual who had ceased to be registered with the Law Society under regulation 17 of the 2000 Regulations.

11.—(1) Paragraphs 16 to 21 of Schedule 2 to the Administration of Justice Act 1985(b) (Solicitors Disciplinary Tribunal proceedings) continue to have effect as applied by regulation 37(3) of, and Schedule 4 to, the 2000 Regulations as if the 2000 Regulations had not been revoked by regulation 3—

- (a) on or after exit day, in relation to an individual who—
 - (i) was a registered European lawyer (within the meaning of regulation 2(1) of the 2000 Regulations as it had effect immediately before exit day), registered with the Law Society at a time before exit day, but
 - (ii) is not an individual in relation to whom regulation 5 applies; and
- (b) at or after the end of the transitional period, in relation to an individual who is on or after exit day an individual registered with the Law Society under regulation 17 of the 2000 Regulations, as that regulation has effect by virtue of regulation 5 of these Regulations,

as those paragraphs had effect before exit day in relation to an individual who had ceased to be registered with the Law Society under regulation 17 of the 2000 Regulations.

(2) So far as it relates to paragraphs 16 to 18A of Schedule 2 to the Administration of Justice Act 1985, sub-paragraph (1) only applies where the complaint falling within paragraph 16 relates to a conviction imposed or a failure to comply or an act in contravention that occurs—

- (a) before exit day, or
- (b) before the end of the transitional period,

as the case may be.

(a) Paragraphs 14B and 14C were inserted by section 177(b) of, and Schedule 16, Part 2, paragraph 103 to, the Legal Services Act 2007 and amended by S.I. 2015/401.

(b) Paragraphs 16 to 21 were amended by section 125 of, and Schedule 18, paragraph 57 and Schedule 20 to, the Courts and Legal Services Act 1990, section 177(b) of, and Schedule 16, Part 2, paragraphs 104 to 109 and Schedule 23 to, the Legal Services Act 2007, section 39(1) of, and Schedule 5, Part 1, paragraph 32 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and S.I. 2015/401.

(3) So far as it relates to paragraphs 20 and 21 of Schedule 2 to the Administration of Justice Act 1985, sub-paragraph (1) only applies where the conduct or default out of which the reason for making the order arises occurs—

- (a) before exit day, or
- (b) before the end of the transitional period,

as the case may be.

Access to Justice (Northern Ireland) Order 2003

12. For article 2(3) of the Access to Justice (Northern Ireland) Order 2003 (interpretation)(a) substitute—

“(3) References to counsel and solicitors shall be construed in accordance with regulation 14 of the European Communities (Lawyer’s Practice) Regulations 2000 as it has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019.”.

Legal Services Act 2007

13.—(1) The Legal Services Act 2007(b) is amended as follows.

(2) In section 111 (interpretation of Part 5)—

(a) for subsection (2)(c) substitute—

“(c) an advocate or solicitor in Scotland,

(ca) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.”;

(b) in subsection (2)(d) for “paragraphs (a) to (c)”, in both places where it occurs, substitute “paragraphs (a) to (ca)”; and

(c) omit subsection (3).

(3) Until sub-paragraph (2) comes into force, section 111(2) has effect as if—

(a) after paragraph (c) there were inserted—

“(ca) an advocate or solicitor in Scotland;

(cb) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.”;

(b) in paragraph (d) for “paragraphs (a) to (c)” in both places where it occurs, there were substituted “paragraphs (a) to (cb)”.

(4) In section 190 (legal professional privilege) in subsection (5)—

(a) after paragraph (g), insert “or”; and

(b) omit paragraph (i) and the “or” preceding it.

(5) Until sub-paragraph (4) comes into force, section 190(5) has effect as if for paragraph (i) there were substituted—

“(i) a European lawyer not within paragraph (h) who is registered with a professional body under—

(i) regulation 17 of the European Communities (Lawyer’s Practice) Regulations 2000 as it has effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019; or

(a) S.I. 2003/435 (N.I. 10), to which there are amendments not relevant to these Regulations.

(b) 2007 c. 29. There are amending instruments not relevant to these Regulations.

- (ii) regulation 17 of the European Communities (Lawyer’s Practice) (Scotland) Regulations 2000, as it has effect on and after exit day.”.
- (6) In Schedule 3 (European lawyers), omit paragraph 7.
- (7) In Part 2 of Schedule 5 (rights of authorised persons during transitional period)—
 - (a) omit paragraph 5;
 - (b) until paragraph (a) of this sub-paragraph comes into force, paragraph 5 has effect as if in sub-paragraph (3), in the definition of “European regulations”, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”;
 - (c) in paragraph 7(4)—
 - (i) in the definition of “legal partnership”, omit “a registered European lawyer”;
 - (ii) omit the definition of “registered European lawyer”;
 - (d) until paragraph (c) of this sub-paragraph comes into force, paragraph 7(4) has effect as if, in the definition of “registered European lawyer”, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”;
 - (e) omit paragraph 8;
 - (f) until paragraph (e) of this sub-paragraph comes into force, paragraph 8 has effect as if, in the definition of “registered European lawyer”, at the end there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.
- (8) In Part 3 of Schedule 18 (immigration advice and immigration services: transitional provisions)—
 - (a) omit paragraph 20;
 - (b) until paragraph (a) of this sub-paragraph comes into force, paragraph 20 has effect as if in sub-paragraph (3), in the definition of “European regulations”, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”;
 - (c) omit paragraph 22;
 - (d) until paragraph (c) of this sub-paragraph comes into force, paragraph 22 has effect as if in sub-paragraph (3), in the definition of “European regulations”, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.
- (9) In Schedule 22 (transitional and transitory provision)—
 - (a) omit paragraph 15(1)(d);
 - (b) until paragraph (a) of this sub-paragraph comes into force, paragraph 15(1)(d) has effect as if, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.

14. The provision made by these Regulations does not affect the protection provided by section 190(2) and (4) of the Legal Services Act 2007 in respect of services provided before exit day or (as the case may be) before the end of the transitional period.

Financial Guidance and Claims Act 2018

15.—(1) The Financial Guidance and Claims Act 2018(a) is amended as follows.

(2) In section 30 (PPI claims: interim restriction on charges before transfer of regulation to FCA), in subsection (5), in the table—

- (a) in the entry relating to the General Council of the Bar, omit the entry relating to registered European lawyers; and
- (b) in the entry relating to the Law Society of England and Wales, omit the entry relating to registered European lawyers.

(3) Until sub-paragraph (2) comes into force, the table in section 30(5) has effect as if—

- (a) in the entry relating to the General Council of the Bar, in the entry relating to registered European lawyers, after “(S.I. 2000/1119)” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”; and
- (b) in the entry relating to the Law Society of England and Wales, in the entry relating to registered European lawyers, after “2000” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.

(4) In section 33 (legal services regulators’ rules: charges for claims management services), in subsection (5)—

- (a) in paragraph (a), omit sub-paragraph (ii) (but not the “and” following it); and
- (b) in paragraph (c) omit sub-paragraph (ii) (and the “and” preceding it).

(5) Until sub-paragraph (4) comes into force, section 33(5) has effect as if—

- (a) in paragraph (a)(ii), after “(S.I. 2000/1119)” insert “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”; and
- (b) in paragraph (c)(ii), after “2000” there were inserted “, as they have effect on and after exit day by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019”.

PART 2

Secondary legislation

Compensation (Exemptions) Order 2007

16. For paragraph 4(2)(c) of the Compensation (Exemptions) Order 2007(b) substitute—

“(c) an individual who is registered under regulation 17 of the European Communities (Lawyer’s Practice) Regulations 2000 as that regulation has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019;”.

Solicitors (Disciplinary Proceedings) Rules 2007

17.—(1) Rule 2 of the Solicitors (Disciplinary Proceedings) Rules 2007(c) is amended as follows.

(2) For paragraph (4) substitute—

(a) 2018 c. 10.
(b) S.I. 2007/209, to which there is an amendment not relevant to these Regulations.
(c) S.I. 2007/3588.

“(4) References in these Rules to registered European lawyers are references to—

- (a) those lawyers—
 - (i) whose names were entered in the register of registered European lawyers maintained by the Law Society under regulation 15 of the European Communities (Lawyer’s Practice) Regulations 2000, as it had effect immediately before exit day, at a time before exit day, but
 - (ii) in relation to whom regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019 does not apply;
- (b) those lawyers whose names are entered in the register of registered European lawyers maintained by the Law Society under regulation 15 of the European Communities (Lawyer’s Practice) Regulations 2000, as that regulation has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019 and includes, where appropriate, those who have ceased to be registered in that register or whose registration has been suspended.”.

Solicitors’ (Non-Contentious Business) Remuneration Order 2009

18. In article 2 of the Solicitors’ (Non-Contentious Business) Remuneration Order 2009 (interpretation)(a), in the definition of “registered European lawyer”, after “2000” insert “, as those Regulations have effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019,”.

Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011

19. In the table in Schedule 2 to the Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011(b), omit the entry relating to the European Communities (Services of Lawyers) Order 1978.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(c) of that Act) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of legal services and, in particular, amend legislation relating to the provision of legal services and the practice of law by European lawyers within England and Wales and Northern Ireland. Part 2 revokes secondary legislation and Part 3 and the Schedule make consequential amendments and transitional provision.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from Judicial and Legal Services Policy, Ministry of Justice, 102 Petty France, London SW1H 9AJ and is published alongside this instrument at www.legislation.gov.uk.

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(a) S.I. 2009/1931, amended by S.I. 2010/2262 and 2012/171.

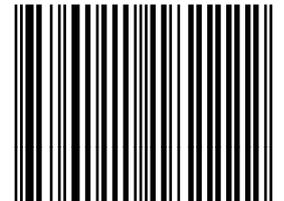
(b) S.I. 2011/2866, to which there are amendments not relevant to these Regulations.

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