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SCHEDULES

SCHEDULE 3 **E+W**

Section 5

TRANSITORY MODIFICATIONS

PART 1 **E+W**

TRANSITORY MODIFICATIONS RELATING TO PRIMARY OPHTHALMIC SERVICES

- 1 (1) “The law relating to primary ophthalmic services” means sections 37 to 41 of, and paragraphs 7 to 9, 11, 12(a), 13(2), (5) and (6), 15, 16, 17, 21(b), 22, 29, 46 and 50 of Schedule 8 to, the Health Act 2006 (c. 28) and—
- (a) the National Health Service Act 1977 (c. 49),
 - (b) section 4A of the National Health Service and Community Care Act 1990,
 - (c) Schedule 1 to the Health and Social Care Act 2001 (c. 15), and
 - (d) section 17(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),
- to the extent that a provision mentioned in any of paragraphs (a) to (d), as amended by any such provision of the 2006 Act, relates to primary ophthalmic services.
- (2) “General ophthalmic services” means general ophthalmic services within the meaning of section 38 of the National Health Service Act 1977.
- (3) This paragraph applies if the law relating to primary ophthalmic services has not come into force before the commencement of this Act.
- (4) Until the coming into force of that law, and notwithstanding any repeal or revocation made by this Act—
- (a) no reference in the National Health Service Act 2006 (c. 41), the National Health Service (Wales) Act 2006 (c. 42) or an Act as amended by this Act to primary ophthalmic services, or to a general ophthalmic services contract, has effect, and
 - (b) the law as it applies in England relating to general ophthalmic services continues to have effect.

PART 2 **E+W**

OTHER TRANSITORY MODIFICATIONS

*Section 11 of the National Health Service Act 2006 (c. 41), and
section 9 of the National Health Service (Wales) Act 2006 (c. 42)*

- 2 (1) This paragraph applies if sub-paragraphs (a) and (b) of paragraph 5 of the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications)

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(England, Wales and Northern Ireland) Order 2006 (S.I. 2006/1056) have not come into force before the commencement of this Act.

- (2) Until the coming into force of those sub-paragraphs—
- (a) section 11 of the National Health Service Act 2006 has effect—
 - (i) with the omission of subsection (1)(d), and
 - (ii) as if, in subsection (7)(b), there were inserted at the end “ or section 27(2) of the National Health Service (Scotland) Act 1978 ”, and
 - (b) section 9 of the National Health Service (Wales) Act 2006 has effect—
 - (i) with the omission of subsection (1)(d), and
 - (ii) as if, in subsection (4), in paragraph (b) of the definition of “pharmaceutical list” there were inserted at the end “ or section 27(2) of the National Health Service (Scotland) Act 1978 ”.
- 3 (1) This paragraph applies if sub-paragraph (c) of paragraph 5 of the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006 has not come into force before the commencement of this Act.
- (2) Until the coming into force of that sub-paragraph—
- (a) section 11 of the National Health Service Act 2006 has effect with the omission of subsection (6), and
 - (b) section 9 of the National Health Service (Wales) Act 2006 has effect with the omission of subsection (5).

Sections 126 and 275 of, and Schedule 13 to National Health Service Act 2006, and section 71, 72, 78, 80, 109, 190, 198 and 206 of the National Health Service (Wales) Act 2006

- 4 (1) This paragraph applies if paragraphs 10, 12(b), 13(3) and (4), 14, 18, 19, 21(a), 24(b) and 25 of Schedule 8 to the Health Act 2006 (c. 00) have not come into force before the commencement of this Act.
- (2) Until the coming into force of those paragraphs, the references to an optometrist in—
- (a) sections 126 and 275 of, and Schedule 13 to, the National Health Service Act 2006, and
 - (b) sections 71, 72, 78, 80, 109, 190, 198 and 206 of the National Health Service (Wales) Act 2006,
- have effect as references to an ophthalmic optician.

Section 128 of the National Health Service Act 2006 (c. 41), and section 82 of the National Health Service (Wales) Act 2006 (c. 42)

- 5 (1) This paragraph applies if paragraph 3 of Schedule 2 to the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006 (S.I. 2006/1056) has not come into force before the commencement of this Act.
- (2) Until the coming into force of that paragraph, section 128 of the National Health Service Act 2006 and section 82 of the National Health Service (Wales) Act 2006 have effect—
- (a) with the omission of subsection (2)(b), and

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- (b) as if, in subsection (6)(b), there were inserted at the end “ or section 27(2) of the National Health Service (Scotland) Act 1978 ”.

*Section 129 of the National Health Service Act 2006, and
section 83 of the National Health Service (Wales) Act 2006*

- 6 (1) This paragraph applies if section 35 of the Health Act 2006 (c. 00) has not come into force before the commencement of this Act.
- (2) Until the coming into force of that section, section 129 of the National Health Service Act 2006 and section 83 of the National Health Service (Wales) Act 2006 have effect with the omission of subsections (4) and (5).

*Section 132 of the National Health Service Act 2006, and
section 86 of the National Health Service (Wales) Act 2006*

- 7 (1) This paragraph applies if subsection (1) of section 36 of the Health Act 2006 has not come into force before the commencement of this Act.
- (2) Until the coming into force of that subsection, section 132 of the National Health Service Act 2006 and section 86 of the National Health Service (Wales) Act 2006 have effect as if for subsection (2) there were substituted—

“(2) No arrangements for the dispensing of medicines may be made (except as may be provided by or under regulations) with persons other than persons who are registered pharmacists, or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 and who undertake that all medicines supplied by them under the arrangements made under this Chapter will be dispensed either by or under the direct supervision of a registered pharmacist.”.

*Section 180 of the National Health Service Act 2006 and
section 129 of the National Health Service (Wales) Act 2006*

- 8 (1) This paragraph applies if subsection (2) of section 42 of the Health Act 2006 has not come into force before the commencement of this Act.
- (2) Until the coming into force of that subsection—
- (a) section 180 of the National Health Service Act 2006 has effect—
- (i) with the omission of the words “or equal to” in subsection (2)(b), and
- (ii) with the omission of subsection (2)(c), and
- (b) section 129 of the National Health Service (Wales) Act 2006 (c. 42) has effect with the omission of the words “or equal to” in subsection (2)(b).

*Schedule 20 to the National Health Service Act 2006 (c. 41) and
Schedule 15 to the National Health Service (Wales) Act 2006*

- 9 (1) This paragraph applies if subsection (7) of section 45 of the Nationality, Immigration and Asylum Act 2002 (c. 41) has not come into force before the commencement of this Act.
- (2) Until the coming into force of that subsection, Schedule 20 to the National Health Service Act 2006 and Schedule 15 to the National Health Service (Wales) Act 2006 have effect as if for paragraph 2(7) there were substituted—

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“(7) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of sub-paragraph (6) as they apply for the purposes of that section, but for the references to the Secretary of State in subsections (5) and (7) of that section and in that paragraph substitute references to a local social services authority.”.

Modifications applicable until the end of the initial period under the Government of Wales Act 2006 (c. 32)

- 10 (1) This paragraph applies if the initial period, within the meaning of the Government of Wales Act 2006, has not ended before the commencement of this Act.
- (2) Until the end of the initial period any reference to the Welsh Ministers in the consolidating Acts, and in an Act as amended by this Act, has effect as a reference to the National Assembly for Wales constituted by the Government of Wales Act 1998 (c. 38).
- (3) For that purpose, functions of the National Assembly for Wales exercisable by virtue of this paragraph are functions falling within paragraph 23(2) of Schedule 11 to the Government of Wales Act 2006.
- (4) Until the end of the initial period—
- (a) paragraph 12(2)(b) of Schedule 4 to the National Health Service Act 2006, and
 - (b) paragraph 12(2)(b) of Schedule 3 to the National Health Service (Wales) Act 2006,
- have effect as if for “paragraph 19 of Schedule 8 to the Government of Wales Act 2006” there were substituted “ section 96A of the Government of Wales Act 1998 ”.
- (5) Until the end of the initial period, section 157(2) and (3) and section 203(4) to (8) of the National Health Service (Wales) Act 2006 do not have effect, but section 44 of the Government of Wales Act 1998 applies in relation to subordinate legislation made by the National Assembly for Wales by virtue of this paragraph, so far as the context requires.
- (6) Until the end of the initial period, Schedule 4 to the National Health Service (Wales) Act 2006 has effect—
- (a) as if for paragraph 1(4) there were substituted—

“(4) An NHS trust's originating capital is deemed to have been issued out of moneys provided by Parliament and is an asset of the Consolidated Fund.”, and
 - (b) as if for paragraph 4(2) and (3) there were substituted—

“(2) Immediately after a guarantee is given under this paragraph, a statement of the guarantee must be laid before, and published by, the National Assembly for Wales constituted under the Government of Wales Act 1998.

(3) Where any sum is issued for fulfilling a guarantee so given, a statement relating to that sum must be laid before, and published by, the National Assembly for Wales constituted under the Government of Wales Act 1998 as soon as possible after the end of each financial

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year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.”.

- (7) Until the end of the initial period, paragraph 5(6) of Schedule 9 to the National Health Service (Wales) Act 2006 (c. 42) has effect as if for paragraph (b) there were substituted—

“(b) lay copies of them and his report on them before the National Assembly for Wales constituted under the Government of Wales Act 1998”.

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