

## SCHEDULES

### SCHEDULE 9

#### Social workers in Scotland

### PART 2

#### Savings and transitional provision

##### **Pending applications**

**12.**—(1) This paragraph applies where a relevant application is made, but not finally determined, before exit day.

(2) Despite their repeal by Part 1 of this Schedule, the following provisions of the 2001 Act continue to apply in relation to the application (including any appeal arising from it), on and after exit day, subject to the modifications specified in paragraph 13—

- (a) section 46B(a);
  - (b) section 51(1)(b); and
  - (c) in section 77, the definitions of “EEA State”, “exempt person”, “the General Systems Regulations” and “relevant European State”.
- (3) For the purposes of sub-paragraph (1), “relevant application” means an application for—
- (a) registration in a part of the register maintained under Part 3 of the 2001 Act; or
  - (b) renewal of registration in that register.
- (4) For the purposes of sub-paragraph (1), an application is finally determined when—
- (a) it is withdrawn;
  - (b) notice is given that it has been granted; or
  - (c) notice is given that it has been granted subject to conditions, or refused, and either—
    - (i) the time limit for appeal against the decision has expired without an appeal being made; or
    - (ii) an appeal made against the decision under section 51 of the 2001 Act has been finally determined or abandoned.

##### **Visiting social workers: saving of old law for up to one year**

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

- (a) a person had, immediately before exit day, the benefit of regulation 12 of the European Union (Recognition of Professional Qualifications) Regulations 2015 in respect of the provision by that person of services as a social worker (and section 46A(3) of the 2001 Act accordingly applied to the person), and
- (b) the person continues to have that benefit on or after exit day.

*Status: This is the original version (as it was originally made).*

(2) Despite their repeal or amendment by Part 1 of this Schedule, the following provisions of the 2001 Act continue to apply in relation to the provision of those services by that person on and after exit day, as they applied before that day, subject to the modifications specified in paragraph 13—

- (a) section 44(1)(aa), (2)(b) and (2A);
  - (b) section 45(1) and (1A);
  - (c) section 46A;
  - (d) section 47(1);
  - (e) section 57(2A); and
  - (f) in section 77, the definitions of “EEA State”, “exempt person”, “the General Systems Regulations”, “relevant European State”, “social service worker” and “visiting social worker from a relevant European state”.
- (3) Sub-paragraph (2) has effect until—
- (a) in the case of a person who is registered in accordance with section 46A(3) of the 2001 Act, the day on which the person’s name is removed from the register under section 46A(6) of that Act;
  - (b) in any other case, the day on which the person’s entitlement under section 46A(3) of the 2001 Act to be registered ceases by virtue of section 46A(5) of that Act.

#### **Interpretation of saved provisions**

**14.** The modifications of the 2001 Act mentioned in paragraphs 11(2) and 12(2) are as follows—

- (a) section 46A(1) is to have effect as if, in the reference to a relevant European State other than the United Kingdom, “other than the United Kingdom” were omitted;
- (b) section 77 is to have effect as if—
  - (i) at the appropriate place, there were inserted—
    - ““enforceable EU right” means a right recognised and available in domestic law, immediately before exit day, by virtue of section 2(1) of the European Communities Act 1972;”;
  - (ii) in the definition of “exempt person”—
    - (aa) for paragraphs (a) to (c), there were substituted—
      - “(a) a person who, immediately before exit day, was a national of a relevant European State,
      - (b) a person who, immediately before exit day, was a national of the United Kingdom and, at that time, was seeking to engage in relevant social work by virtue of an enforceable EU right, or
      - (c) a person who, immediately before exit day, was not a national of a relevant European State, but at that time was, by virtue of an enforceable EU right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of a relevant European State;”;
    - (bb) in the words after paragraph (c), for “is not” there were substituted “was not, immediately before exit day”;
  - (iii) at the end of the definition of “the General Systems Regulations”, there were inserted—
    - “—
    - (a) in relation to anything done before exit day, as they had effect at that time;

- (b) otherwise, as (and only to the extent that) they have effect, on or after exit day, in relation to an entitlement which arose before exit day or arises as a result of anything done before exit day;”.

### **IMI alerts**

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

- (a) before exit day, a person is given notice of a decision made under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 to send an alert about the person; and
- (b) either—
  - (i) the time limit for appeal against the decision under section 51(1)(c) of the 2001 Act expires on or after exit day; or
  - (ii) an appeal against the decision under that section is made, but not finally determined, before exit day.

(2) Despite their repeal by Part 1 of this Schedule, the following provisions of the 2001 Act continue to apply in relation to the decision on and after exit day—

- (a) section 51(1)(c); and
- (b) in section 77, the definition of “the General Systems Regulations”.

(3) In disposing of an appeal against the decision on or after exit day, the sheriff has (instead of the powers specified in section 51(2) of the 2001 Act) the power—

- (a) to confirm the decision; or
- (b) if the sheriff considers that the alert should be withdrawn or amended, to direct that the Scottish Social Services Council take such steps as the sheriff thinks fit to notify the European Commission of the sheriff’s decision.