

SCHEDULES

SCHEDULE 8

Health and social work professionals

PART 2

Savings and transitional provision

Pending applications

19.—(1) Where a relevant application is received before exit day, any provision made by or under the 2001 Order (except for article 12(1)(ba) of the Order) continues to apply in relation to the application (including any appeal arising from it) without the amendments made by Part 1 of this Schedule.

(2) In sub-paragraph (1), “relevant application” means an application for—

- (a) admission to a part of the register kept under the 2001 Order,
- (b) renewal of registration in that register,
- (c) readmission to that register following lapse of registration, or
- (d) restoration to that register following striking-off.

Visiting health and social work professionals: saving of old law for up to one year

20.—(1) 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 member of one of the relevant professions (and article 13A(3) of the 2001 Order accordingly applied to the person), and
- (b) the person continues to have that benefit on or after exit day,

any provision made by or under the 2001 Order continues to apply in relation to the provision of those services by that person without the amendments that Part 1 of this Schedule makes to the provisions relating to visiting health and social work professionals from relevant European states.

(2) Sub-paragraph (1) ceases to apply in relation to a visiting health or social work professional—

- (a) if the professional is registered as required by article 13A(3) of the 2001 Order, when his or her name is removed under article 13A(6) of the Order;
- (b) otherwise, when the professional’s entitlement ceases by reason of the operation of article 13A(5) of the Order.

(3) In sub-paragraph (1)—

- (a) “relevant professions” has the meaning given by Schedule 3 to the 2001 Order;
- (b) the reference to “the provisions relating to visiting health and social work professionals from relevant European states” is to the provisions listed in the following table.

Status: This is the original version (as it was originally made).

<i>Act or instrument</i>	<i>Provision relating to visiting professionals</i>
The 2001 Order	article 6(3)(aa)
	article 7(4)
	article 9(1) and (8)
	article 10(1) and (6)
	article 11A(12)
	article 13A (except paragraph (2)(b))
	article 19(2A) to (2D)
	article 37(1)(aa)
	article 38 (so far as relating to article 37(1)(aa))
	in Schedule 3, the definitions of “exempt person”, “the General Systems Regulations”, “national”, “relevant European State” and “visiting health or social work professional from a relevant European State”
Health Professions (Parts of and Entries in the Register) Order of Council 2003	article 7
Health and Care Professions Council (Registration and Fees) Rules 2003	rule 2A

European Professional Card

21.—(1) Sub-paragraph (2) applies where, immediately before exit day—

- (a) a person held a valid European professional card for establishment as a physiotherapist in the United Kingdom, or
- (b) the Health and Care Professions Council was in receipt of a person’s application for such a card, the application having been transmitted to it under Article 4d(1) of the Directive.

(2) For the purposes of registration as a physiotherapist, the person is not required to resubmit any document or evidence held by the Council which is derived from the person’s IMI file and which does not appear to the Council to have become invalid.

(3) Where, immediately before exit day, a person fell within article 12(1)(ba) of the 2001 Order by virtue of holding a European professional card for establishment as a physiotherapist in the United Kingdom, the person is to continue to be regarded as having an approved qualification for the purposes of registration as a physiotherapist despite the revocation of article 12(1)(ba).

(4) In this paragraph—

- (a) “the Directive” means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), as it had effect immediately before exit day;
- (b) “IMI file” has the meaning given by Schedule 4 to the 2001 Order as it had effect immediately before exit day;
- (c) “registration as a physiotherapist” means registration as such in the register maintained under article 5 of the 2001 Order.

22.—(1) Where, immediately before exit day, a person was entitled as mentioned in article 13A(2)(b) of the 2001 Order, any provision made by or under that Order continues to apply in relation to the person without the amendments made by Part 1 of this Schedule to the provisions relating to the provision of occasional health or social work services by holders of a European professional card.

(2) But the person’s entitlement ceases on the expiry of the period of 18 months beginning with the day on which the person’s European professional card was issued, and the person may accordingly be removed from the register maintained under article 5 of the 2001 Order.

(3) The reference in sub-paragraph (1) to “the provisions relating to the provision of occasional health or social work services by holders of a European professional card” is to the provisions listed in the table in paragraph 20(3), but as if—

(a) in the entry for article 13A of the 2001 Order, for “(except paragraph (2)(b))” there were substituted “(except paragraphs (2)(a), (5) and (6))”;

(b) in the entry for Schedule 3 to the 2001 Order, there were added the definition of “European professional card”.

(4) The definition of “European professional card” in Schedule 3 to the 2001 Order, as it continues to have effect by virtue of sub-paragraph (3)(b), is to be read as if for “as amended from time to time” there were substituted “as it had effect immediately before exit day”.

23.—(1) A decision within article 38(1A)(d) of the 2001 Order taken before exit day, or a failure within article 38(1A)(e) of that Order arising before exit day, continues to be appealable for the purposes of article 38(1)(b) of that Order (subject to the provisions of that Order) despite the revocation of article 38(1A).

(2) In disposing of such an appeal, the powers of the court or sheriff are, instead of those set out in article 38(3) of the 2001 Order, to—

(a) dismiss the appeal, or

(b) allow the appeal and—

(i) direct the Council to take such steps as the court or sheriff thinks fit to draw the findings of the court or sheriff to the attention of the European Commission;

(ii) direct that the person in respect of whom the decision was taken (or the failure arose) is to be treated, for the purposes of paragraph 21(1) or (3), as a person who held a valid European professional card for establishment as a physiotherapist in the United Kingdom immediately before exit day,

and to make such order as to costs (or, in Scotland, expenses) as the court or sheriff thinks fit.

IMI alerts

24.—(1) Where an alert has been sent by the Health and Care Professions Council before exit day under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015, the decision to send the alert continues to be appealable for the purposes of article 38(1)(b) of the 2001 Order (subject to the provisions of that Order) despite the revocation of article 38(1A)(c).

(2) In disposing of such an appeal, the powers of the court or sheriff are, instead of those set out in article 38(3) of the 2001 Order, to—

(a) dismiss the appeal, or

(b) allow the appeal and direct the Council to take such steps as the court or sheriff thinks fit to draw the findings of the court or sheriff to the attention of the European Commission,

and to make such order as to costs (or, in Scotland, expenses) as the court or sheriff thinks fit.

Interpretation of saved provisions

25. Where a provision continues to apply by virtue of this Part, it is to be read as if—
- (a) in Schedule 3 to the 2001 Order, in paragraph (1)—
 - (i) there were inserted at the appropriate place—

““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”, 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 access to, or pursuing, a relevant profession 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, for the purposes of access to and pursuit of a relevant profession, no less favourably than a national of a relevant European State;”;
 - (iii) in the definition of “General Systems Regulations”, at the end 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 something done before exit day;”;
 - (iv) in the definition of “national”, for “is not” there were substituted “was not, immediately before exit day”;
 - (b) in rule 2 of the Health and Care Professions Council (Registration and Fees) Rules 2003, in the definition of “competent authority”, after “professional qualifications” there were inserted “(as it had effect immediately before exit day)”;
 - (c) in any reference to a relevant European State other than the United Kingdom, the words “other than the United Kingdom” were omitted.