

## SCHEDULES

### SCHEDULE 2

Pharmacists and pharmacy technicians

### PART 2

Savings and transitional provision

#### **Pending applications**

**44.** Where an application for entry in, or restoration to, a part of the register kept under the 2010 Order is received before exit day, any provision made by or under that Order (except for provision contained in Schedule 2A to 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.

#### **Visiting pharmacists and pharmacy technicians: saving of old law for up to one year**

**45.—(1)** Where, immediately before exit day—

- (a) a visiting pharmacist or pharmacy technician was entitled under paragraph 3, 6, 11 or 14 of Schedule 2 to the 2010 Order to provide occasional pharmacy services, or
- (b) the Registrar was in receipt of the required documents (within the meaning of paragraph 4 or 12 of that Schedule) from a pharmacist or pharmacy technician seeking to acquire that entitlement,

any provision made by an Act or instrument amended by Part 1 of this Schedule continues to apply in relation to the pharmacist or technician without the amendments that Part 1 of this Schedule makes to the provisions relating to visiting practitioners from relevant European States.

(2) But a visiting practitioner’s entitlement does not continue (or further continue) under paragraph 6 or 14 of Schedule 2 to the 2010 Order on or after exit day (and, accordingly, the entitlement lapses at the end of—

- (a) in the case of a pharmacist, the period mentioned in paragraph 7(1) or (2) of that Schedule;
- (b) in the case of a pharmacy technician, the period mentioned in paragraph 15(1) or (2) of that Schedule).

(3) The reference in sub-paragraph (1) to “the provisions relating to visiting practitioners from relevant European States” is to the provisions listed in the following table.

<i>Instrument</i>	<i>Provision relating to visiting practitioners</i>
The 1968 Act	section 67E
	section 69(1ZA)
	section 71(7)
	section 78(5) and (5A)

**Status:** This is the original version (as it was originally made).

<i>Instrument</i>	<i>Provision relating to visiting practitioners</i>
The 2010 Order	in article 3(1), the definitions of “competent authority”, “exempt person”, “General Systems Regulations”, “registered pharmacist” and “registered pharmacy technician”
	article 19(2)(d) and (e)
	article 29(3)(a)
	article 32(11)
	article 33
	article 36(3)
	article 37(5)
	article 38(2) and (4)
	article 39(1)(c), (e), (i) and (l)
	article 43(5)(c), (8)(b) and (9)
	Schedule 2
Medicines for Human Use (Clinical Trials) Regulations 2004	regulation 2(1)
National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009	regulation 2(1)
General Pharmaceutical Council (Registration) Rules 2010	rule 18(1)(a) and (5)(a)(i)
	rule 19(1), (4)(a) and (5)(b)
	rule 20(3)(a)
General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules 2011	rule 5(2)(b) and (3)
	rule 6(f)(ii)
	rule 8(1)
	rule 9(5)
Human Medicines Regulations 2012	rule 11(1)(a)
	regulation 8(1)
National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013	regulation 2(1)

### **European Professional Card**

- 46.**—(1) Sub-paragraph (2) applies where, immediately before exit day—
- (a) a person held a valid European professional card for establishment as a pharmacist in Great Britain, or
  - (b) the General Pharmaceutical 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 in the register kept under the 2010 Order, 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) 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 article 3 of the 2010 Order as it had effect immediately before exit day.

**47.—**(1) Where, immediately before exit day, a person was entitled as mentioned in paragraph 15(2) of Schedule 2A to the 2010 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 pharmacy services by holders of a European professional card.

(2) For the purposes of paragraph 15(4)(a) of Schedule 2A to the 2010 Order as it continues to apply by virtue of sub-paragraph (1)—

- (a) a European professional card that was transmitted as mentioned in paragraph 15(1)(a) of that Schedule is to be treated as becoming invalid on the expiry of the period of 18 months beginning on the day on which it was transmitted;
- (b) a European professional card that was issued as mentioned in paragraph 15(1)(b) of that Schedule is to be treated as becoming invalid on the expiry of the period of 12 months beginning with the day on which it was issued.

(3) The reference in sub-paragraph (1) to “the provisions relating to the provision of occasional pharmacy services by holders of a European professional card” is to the provisions listed in the following table.

<i>Instrument</i>	<i>Provision relating to visiting practitioners</i>
The 1968 Act	section 67E
	section 69(1ZA)
	section 71(7)
	section 78(5) and (5A)
The 2010 Order	in article 3(1), the definitions of “competent authority”, “European professional card”, “General Systems Regulations”, “IMI”, “IMI file” and “registered pharmacist”
	article 19(2)(d)
	article 29(3)(a)
	article 33A
	article 36(3)
	article 37(5)
	article 38(2) and (4)
	article 39(1)(c), (i) and (l)

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<i>Instrument</i>	<i>Provision relating to visiting practitioners</i>
	article 43(5)(c), (8)(b) and (9)
	in Schedule 2A, paragraphs 2 (except the definitions of “automatically recognised pharmacist”, “EPC holder” and “missing document”), 15 and 16
Medicines for Human Use (Clinical Trials) Regulations 2004	regulation 2(1)
National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009	regulation 2(1)
General Pharmaceutical Council (Registration) Rules 2010	rule 18(1)(a) and (5)(a)(i)
	rule 19(1), (4)(a) and (5)(b)
	rule 20(3)(a)
General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules 2011	rule 5(2)(b) and (3)
	rule 8(1)
	rule 9(5)
	rule 11(1)(a)
Human Medicines Regulations 2012	regulation 8(1)
National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013	regulation 2(1)

**48.**—(1) A decision within article 39(1)(u) of the 2010 Order taken before exit day, or a failure within article 39(1A) of that Order arising before exit day, continues to be appealable for the purposes of article 40 of that Order (subject to the provisions of the Order) despite the revocation of article 39(1)(u) and (1A).

(2) In disposing of such an appeal (or a further appeal under article 41 of the 2010 Order), the powers of the Appeal Committee (or the relevant court) are, instead of those set out in article 40(7) (or 41(4)) of the 2010 Order, to—

- (a) dismiss the appeal, or
- (b) allow the appeal and—
  - (i) direct the Council to take such steps as the Committee (or the relevant court) thinks fit to draw the findings of the Committee (or court) 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 45(1)(a), as a person who held a valid European professional card for establishment in Great Britain immediately before exit day,

and, in the case of an appeal under article 41, to make such order as to costs (or, in Scotland, expenses) as the court thinks fit.

### **IMI alerts**

**49.**—(1) Where an alert has been sent by the General Pharmaceutical Council before exit day under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (as they had effect before exit day), the decision to send the alert continues to be appealable

for the purposes of article 40 of the 2010 Order (subject to the provisions of that Order) despite the revocation of article 39(1)(t).

(2) In disposing of such an appeal (or a further appeal under article 41 of the 2010 Order), the powers of the Appeal Committee (or the relevant court) are, instead of those set out in article 40(7) (or 41(4)) of the 2010 Order, to—

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

and, in the case of an appeal under article 41, to make such order as to costs (or, in Scotland, expenses) as the court thinks fit.

### **Interpretation of saved provisions**

**50.** Where a provision continues to apply by virtue of this Part, it is to be read as if—

(a) in article 3(1) of the 2010 Order—

(i) there were substituted for the definition of “the Directive”—

““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), and any reference in this Order to the Directive or to any provision of the Directive is a reference to the Directive, or to that provision, as it had effect immediately before exit day;”;

(ii) 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;”;

(iii) 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, the profession of pharmacist or pharmacy technician 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 the profession of pharmacist or pharmacy technician, no less favourably than a national of a relevant European State;”;

(iv) in the definition of “General Systems Regulations”, after “2015” 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;”;

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- (b) in any reference to a relevant European State other than the United Kingdom, the words “other than the United Kingdom” were omitted.