

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 [^{F1}IP completion 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 [^{F2}IP completion day], subject to the modifications specified in [^{F3}paragraph 14 or, in the case of a relevant applicant, the modifications specified in paragraph 14A]—

- (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”.

[^{F4}(2A) In this Part, “relevant applicant” has the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.]

(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- (a) it is withdrawn;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.

Textual Amendments

- F1** Words in Sch. 9 para. 12(1) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(2)(a)**

Changes to legislation: There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)

- F2** Words in Sch. 9 para. 12(2) substituted (31.12.2020 immediately before IP completion day) by The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1394), regs. 1(2), **17(2)(a)**
- F3** Words in Sch. 9 para. 12(2) substituted (31.12.2020 immediately before IP completion day) by The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1394), regs. 1(2), **17(2)(b)**
- F4** Sch. 9 para. 12(2A) inserted (31.12.2020 immediately before IP completion day) by The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1394), regs. 1(2), **17(2)(c)**

Commencement Information

- I1** Sch. 9 para. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Visiting social workers: saving of old law for up to [^{F5}five years]

13.—(1) This paragraph applies where—

- (a) a person had, immediately before [^{F6}IP completion 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 [^{F7}IP completion day].

(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 [^{F8}IP completion day], as they applied before that day, subject to the modifications specified in [^{F9}paragraph 14]—

- (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”.

[^{F10}(2A) Where a person to whom this paragraph applies is a relevant applicant, that person may only provide services as a social worker for a period not exceeding 90 days in total in any calendar year.]

(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.

Changes to legislation: There are currently no known outstanding effects for the *The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019, PART 2.* (See end of Document for details)

Textual Amendments

- F5** Words in Sch. 9 para. 13 heading substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(a\)](#)
- F6** Words in Sch. 9 para. 13(1)(a) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(b\)](#)
- F7** Words in Sch. 9 para. 13(1)(b) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(b\)](#)
- F8** Words in Sch. 9 para. 13(2) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(b\)](#)
- F9** Words in Sch. 9 para. 13(2) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(c\)](#)
- F10** Sch. 9 para. 13(2A) inserted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\), regs. 1\(2\), 17\(3\)\(d\)](#)

Commencement Information

- I2** Sch. 9 para. 13 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Interpretation of saved provisions

14. The modifications of the 2001 Act mentioned in ^[F11]paragraphs 12(2) and 13(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 ^[F12]IP completion 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 ^[F13]IP completion day], was a national of a relevant European State,
- (b) a person who, immediately before ^[F13]IP completion 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 ^[F13]IP completion 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

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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 [^{F13}IP completion day]”;

(iii) at the end of the definition of “the General Systems Regulations”, there were inserted—

“(a) in relation to anything done before [^{F14}IP completion day], as they had effect at that time;

(b) otherwise, as (and only to the extent that) they have effect, on or after [^{F14}IP completion day], in relation to an entitlement which arose before [^{F14}IP completion day] or arises as a result of anything done before [^{F14}IP completion day];”.

Textual Amendments

F11 Words in Sch. 9 para. 14 substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(4)(a)**

F12 Words in Sch. 9 para. 14(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(4)(b)**

F13 Words in Sch. 9 para. 14(b)(ii) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(4)(b)**

F14 Words in Sch. 9 para. 14(b)(iii) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(4)(b)**

Commencement Information

I3 Sch. 9 para. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

[^{F15} Interpretation of saved provisions: Swiss visiting social workers

14A. The modifications of the 2001 Act in the case of a relevant applicant mentioned in paragraph 12(2) are as follows—

(a) section 46A(1) is to have effect as if—

(i) the reference to “an exempt person” were a reference to “a relevant applicant (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”, and

(ii) the reference to “a relevant European State other than the United Kingdom” were a reference to “Switzerland”;

(b) section 77 is to have effect as if—

(i) the definition of “exempt person” were omitted,

(ii) at the end of the definition of “the General Systems Regulations” there were inserted—

“—

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

Textual Amendments

F15 Sch. 9 para. 14A inserted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(5)**

Commencement Information

I4 Sch. 9 para. 14A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

IMI alerts

15.—(1) This paragraph applies where—

- (a) before [^{F16}IP completion 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 [^{F17}IP completion day]; or
 - (ii) an appeal against the decision under that section is made, but not finally determined, before [^{F18}IP completion 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 [^{F19}IP completion 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 [^{F20}IP completion 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
- [^{F21}(b) if the sheriff considers that the alert should not have been sent, to allow the appeal.]

Textual Amendments

F16 Words in Sch. 9 para. 15(1)(a) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(6)**

F17 Words in Sch. 9 para. 15(1)(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(6)**

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- F18** Words in Sch. 9 para. 15(1)(b)(ii) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(6)**
- F19** Words in Sch. 9 para. 15(2) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(6)**
- F20** Words in Sch. 9 para. 15(3) substituted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(6)**
- F21** Sch. 9 para. 15(3)(b) substituted (24.2.2022) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2022 \(S.I. 2022/82\)](#), regs. 1(2), **3(10)**

Commencement Information

- I5** Sch. 9 para. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

[^{F22}Applications from Swiss social workers: saving of old law

16.—(1) This paragraph applies where a registration application is received from a Swiss social worker before the end of the Swiss recognition period.

(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), after IP completion day, subject to the modifications specified in paragraph 17—

- (a) section 46B(a),
- (b) section 51(1)(b), and
- (c) in section 77, the definition of “the General Systems Regulations”.

(3) For the purposes of this paragraph, a “Swiss social worker” is a qualifying applicant who had not, before IP completion day, made a registration application (other than an application under section 46A of the 2001 Act).

(4) In this paragraph “registration application” means an application for registration in a part of the register maintained under Part 3 of the 2001 Act.]

Textual Amendments

- F22** Sch. 9 paras. 16, 17 inserted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(7)**

Commencement Information

- I6** Sch. 9 para. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

[^{F22}Interpretation of provisions saved by paragraph 16

17. The modifications of the 2001 Act mentioned in paragraph 16 are as follows—

- (a) section 46B(a) is to have effect as if the reference to “an exempt person” were a reference to “a Swiss social worker within the meaning given in paragraph 16 of this Part of this Schedule”;

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- (b) section 77 has effect as if, at the end of the definition of “the General Systems Regulations”, there were inserted “as (and only to the extent that) they have effect, after IP completion day, in relation to an entitlement which arises in relation to a relevant qualification (within the meaning given in regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”.]

Textual Amendments

- F22** Sch. 9 paras. 16, 17 inserted (31.12.2020 immediately before IP completion day) by [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1394\)](#), regs. 1(2), **17(7)**

Commencement Information

- I7** Sch. 9 para. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019, PART 2.