

SCHEDULE 1

Amendments etc. of the principal Regulations and the 2007 Regulations

PART 3

Transitional and saving provision

Saving of decisions etc. taken before exit day

40. The amendments and revocations made by these Regulations do not affect the validity of any action or decision taken or right accrued under the principal Regulations or the 2007 Regulations before exit day, except as provided in this Part.

Language testing – transitional and saving provision

41.—(1) Where a competent authority has recognised a professional qualification—

- (a) before exit day, under the principal Regulations; or
- (b) pursuant to paragraph 44,

the provisions of the principal Regulations specified in sub-paragraph (2) continue to apply on and after exit day as if not amended by Part 2, but subject to the modification specified in sub-paragraph (3).

(2) The specified provisions are—

- (a) regulation 6;
- (b) regulation 68, so far as it relates to appeals against a decision of a competent authority under regulation 6(1); and
- (c) any other provision of the principal Regulations so far as they relate to those provisions,

(3) Regulation 6(2) is to be read as if the words “or the issue of a European Professional card” were omitted.

Temporary and occasional provision of services – Part 2 of the principal Regulations - transitional and saving provision

42.—(1) This paragraph applies where, before exit day, an applicant has submitted or renewed a declaration in accordance with regulation 15 of the principal Regulations to the appropriate competent authority.

(2) The provisions of the principal Regulations continue to apply on and after exit day in relation to the applicant concerned, as if not amended by Part 2 but subject to the modifications specified in sub-paragraph (3), until the earlier of the following—

- (a) the day before that on which renewal of the declaration in accordance with regulation 15(2) (c) would have been required but for the modification specified in paragraph (3);
- (b) the loss of entitlement to provide services in accordance with regulation 24(1) or 25 (as those regulations are modified in accordance with sub-paragraph (3)), or pursuant to any other provision of the principal Regulations;
- (c) where applicable—
 - (i) the expiry of the period for appeal against a decision under regulation 13(2) without an appeal being made; or

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- (ii) the determination of any appeal made under regulation 68(1) against the applicant, in relation to a decision under regulation 13(2);
 - (d) the day before the first anniversary of the day on which exit day falls.
- (3) The modifications to the principal Regulations are as follows—
 - (a) the United Kingdom is to be treated as falling within the definition of “relevant European State”;
 - (b) regulation 5 is to be read as if—
 - (i) paragraphs (2) and (3) were omitted;
 - (ii) for paragraph (4), there were substituted—
 - “(4) A competent authority must—
 - (a) act as a point of single contact for their regulated professions; and
 - (b) provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”;
 - (iii) for paragraph (5), there were substituted—
 - “(5) A competent authority must fully cooperate with the assistance centre and provide all relevant information about individual cases to the assistance centre on request, and subject to data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018.”;
 - (iv) paragraphs (7) and (9) were omitted;
 - (v) in paragraph (10), for “regulations 21 and” there were substituted “regulation”;
 - (vi) after paragraph (11), there were inserted—
 - “(12) If the applicant does not provide any certified copies requested under paragraph (6) before the expiry of the time limit for the competent authority to notify the applicant of its decision under regulation 42(2), the competent authority may refuse the application.”.
 - (c) regulation 15 is to be read as if—
 - (i) in paragraph (2), sub-paragraph (c) and the “and” immediately before it were omitted;
 - (ii) in paragraph (b) “or renewal” were omitted;
 - (d) regulation 23 is to be read as if in paragraph (2) after “the applicant may” there were inserted “not”;
 - (e) regulation 24 is to be read as if paragraphs (2), (3) and (4) were omitted;
 - (f) regulation 25 is to be read as if —
 - (i) after paragraph (1), there were inserted—
 - “(1A) If the competent authorities of the home State fail to provide the information requested under paragraph (1) within one month, the applicant will no longer be entitled to provide services in the profession that the applicant is pursuing in the United Kingdom in accordance with this Part nor retain any temporary registration.”;
 - (ii) paragraph (3) were omitted;
 - (g) Parts 4 and 5 are to be ignored;
 - (h) in regulation 66—

- (i) paragraph (1) is to be read as if for “must” there were substituted “may”;
 - (ii) paragraph (3) is to be read as if for the words from “rules” to the end, there were substituted “legislation within the meaning of section 3(9) of the Data Protection Act 2018”;
 - (i) regulation 67 is to be ignored, save to the extent that paragraph 46 of this Schedule applies;
 - (j) regulation 68, so far as it relates to an appeal under regulation 67, is to be ignored, save to the extent that paragraph 46 of this Schedule applies.
- (4) In this paragraph, “applicant” has the meaning in regulation 8(3) of the principal Regulations—
- (a) before amendment made by Part 2; and
 - (b) with the omission of the words “including Part 4”.

Temporary and occasional provision – transitional and saving provision relating to certain sectoral professions

43.—(1) In connection with the provisions referred to in sub-paragraph (2), so far as they continue to have effect after exit day, regulations 13 and 19 to 23 of the principal Regulations continue to apply without the amendments made by Part 2, but with the modifications specified in paragraph 42(3).

(2) The provisions are—

- (a) Schedule 1B to the Veterinary Surgeons Act 1966⁽¹⁾;
- (b) Schedule 2A to the Medical Act 1983⁽²⁾;
- (c) Schedule 4 to the Dentists Act 1984⁽³⁾;
- (d) Schedule 2A to the Nursing and Midwifery Order 2001⁽⁴⁾;
- (e) Schedule 2 to the Pharmacy Order 2010⁽⁵⁾.

Applications begun before exit day – Chapters 1 and 2 of Part 3 of the principal Regulations - transitional and saving provision

44.—(1) This paragraph applies where—

- (a) before exit day, an applicant has made an application to a competent authority or to a point of single contact under, or relying on an entitlement under, Chapters 1 and 2 of Part 3 of the principal Regulations; and
- (b) the application has not been finally determined before exit day.

(2) For the purposes of sub-paragraph (1), an application is finally determined when—

- (a) the competent authority has notified or is deemed to have notified the applicant of its decision; and
- (b) either—
 - (i) the period for appeal against that decision under the principal Regulations has expired without an appeal being made; or
 - (ii) an appeal made under regulation 68(1) of the principal Regulations against a decision taken or deemed to be taken under regulations 10 or 42(2) has been determined.

(1) 1966 c. 36. Schedule 1B was inserted by S.I. 2008/1284 and amended by S.I. 2011/1043, 2015/2073.

(2) 1983 c. 54. Schedule 2A was inserted by S.I. 2007/3101 and amended by S.I. 2016/1030.

(3) 1984 c. 24. Schedule 4 was substituted by S.I. 2007/3101 and amended by S.I. 2016/1030.

(4) S.I. 2002/253. Schedule 2A was inserted by S.I. 2007/3101 and amended by S.I. 2011/1043, 2016/1030.

(5) S.I. 2010/231, amended by S.I. 2016/1030.

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(3) The provisions of the principal Regulations continue to apply on and after exit day as if not amended by Part 2 of this Schedule, but subject to the modifications specified in sub-paragraph (4), in relation to—

- (a) the application concerned; and
- (b) any appeal under regulation 68(1) of the principal Regulations against a decision made under regulations 10 or 42(2) in relation to that application.

(4) The modifications to the principal Regulations are as follows—

(a) the United Kingdom is to be treated as falling within the definition of “relevant European State”;

(b) regulation 5 is to be read as if—

- (i) paragraphs (2) and (3) were omitted;
- (ii) for paragraph (4), there were substituted—

“(4) A competent authority must—

- (i) act as a point of single contact for their regulated professions; and
- (ii) provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”;

(iii) for paragraph (5), there were substituted—

“(5) A competent authority must fully cooperate with the assistance centre and provide all relevant information about individual cases to the assistance centre on request, and subject to data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018.”;

(iv) paragraphs (7) and (9) were omitted;

(v) in paragraph (10), for “regulations 21 and” there were substituted “regulation”;

(vi) after paragraph (11), there were inserted—

“(12) If the applicant does not provide any certified copies requested under paragraph (6) before the expiry of the time limit for the competent authority to notify the applicant of its decision under regulation 42(2), the competent authority may refuse the application.”.

(c) regulation 39 is to be read as if for “require” in paragraphs (1) and (3), there were substituted “request”;

(d) regulation 41 is to be ignored;

(e) regulation 42(5) is to be ignored;

(f) Parts 4 and 5 are to be ignored;

(g) in regulation 66—

(i) paragraph (1) is to be read as if for “must” there were substituted “may”;

(ii) paragraph (3) is to be read as if for the words from “rules” to the end, there were substituted “legislation within the meaning of section 3(9) of the Data Protection Act 2018”;

(h) regulation 67 is to be ignored, save to the extent that paragraph 46 of this Schedule applies;

(i) regulation 68, so far as it relates to an appeal under regulation 67, is to be ignored, save to the extent that paragraph 46 of this Schedule applies.

(5) In this paragraph, “applicant” has the same meaning as in regulation 8(4) of the principal Regulations—

- (a) before amendment made by Part 2; and
- (b) with the omission of the words “including Part 4”.

Certificates of Experience – Chapter 3 of Part 3 of the principal Regulations - transitional and saving provision

45.—(1) Where, before exit day, a person has applied to ECCTIS Limited for a Certificate of Experience under regulation 36 of the principal Regulations—

- (a) that regulation; and
- (b) any other provision of the principal Regulations so far as it relates to regulation 36,

continue to apply on and after exit day as if not amended by Part 2 in relation to that application.

(2) Regulation 37 continues to apply on and after exit day as if not amended by Part 2 in relation to any Certificate of Experience issued by ECCTIS under the principal Regulations.

Alert mechanism – saving provision

46.—(1) This regulation applies where a designated competent authority has, before exit day, sent an alert under regulation 67 of the principal Regulations.

(2) Regulations 67 and 68 of the principal Regulations continue to apply on and after exit day as if not amended by Part 2, but subject to the modifications specified in sub-paragraph (3), in relation to—

- (a) the decision to send the alert; and
- (b) any appeal made in relation to that decision.

(3) The modifications to the principal Regulations are as follows—

- (a) regulations 67(1) to (6) are to be ignored;
- (b) regulation 67(8) is to be read as if for “qualify the alert to show that it” there were substituted “notify the Commission that the alert”;
- (c) regulation 67(9) is to be read as if for the words from “delete” to “it”, there were substituted “notify the Commission within three days of a decision revoking the alert”;
- (d) regulation 68(5) is to be read as if for sub-paragraph (b) there were substituted—

“(b) allow the appeal and direct the designated competent authority to take such steps as the appeal body thinks fit to draw the findings of the appeal body to the attention of the European Commission.”.

2007 Regulations – Temporary and occasional provision of services - transitional and saving provision

47.—(1) This paragraph applies where, before exit day, an applicant has submitted or renewed a declaration in accordance with regulation 11 of the 2007 Regulations to the appropriate competent authority.

(2) The provisions of the 2007 Regulations continue to apply on and after exit day in relation to the applicant concerned, as they had effect immediately before exit day, but subject to the modifications specified in paragraph (3), until the earlier of the following—

- (a) the day before that on which renewal of the declaration in accordance with regulation 11(2)
- (c) would have been required but for the modification specified in paragraph (3);

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- (b) the loss of entitlement to provide services in accordance with regulation 17(1) or 18 (as those regulations are modified in accordance with sub-paragraph (3)) or pursuant to any other provision of the 2007 Regulations;
 - (c) where applicable—
 - (i) the expiry of the period for appeal against a decision under regulation 9(2) without an appeal being made; or
 - (ii) the determination of any appeal made under regulation 36(1) against the applicant, in relation to a decision under regulation 9(2); or
 - (d) the day before the first anniversary of the day on which exit day falls.
- (3) The modifications to the 2007 Regulations are as follows—
- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State”;
 - (b) regulation 5 is to be read as if—
 - (i) paragraph (2) were omitted;
 - (ii) in paragraph (3) for “shall” there were substituted “may”;
 - (iii) paragraph (5) were omitted;
 - (iv) for paragraph (7), there were substituted—

“(7) A competent authority must provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”.
 - (c) regulation 11 is to be read—
 - (i) as if paragraph (2)(c) and the “and” immediately before it were omitted;
 - (ii) in paragraph (3) “or renewal” were omitted;
 - (d) regulation 16(5) is to be read as if after “the applicant may” there were inserted “not”;
 - (e) regulation 17 is to be read as if paragraphs (2), (3) and (4) were omitted;
 - (f) regulation 18 is to be read as if after paragraph (2), there were inserted—

“(3) If the competent authorities of the home State fail to provide the information requested under paragraph (1)(a) within one month, the applicant will no longer be entitled to provide services in the profession that the applicant is pursuing in the United Kingdom in accordance with this Part nor retain any temporary registration.”.
- (4) In this paragraph, “applicant” has the meaning in regulation 6(3) of the 2007 Regulations, as those Regulations had effect immediately before exit day.

Applications begun before exit day – Chapters 1 and 2 of Part 3 of the 2007 Regulations - transitional and saving provision

- 48.**—(1) This paragraph applies where—
- (a) before exit day, an applicant has made an application to a competent authority under, or relying on an entitlement under, Chapters 1 and 2 of Part 3 of the 2007 Regulations; and
 - (b) the application has not been finally determined before exit day.
- (2) For the purposes of sub-paragraph (1), an application is finally determined when—
- (a) the competent authority has notified or is deemed to have notified the applicant of its decision; and
 - (b) either—

- (i) the period for appeal against that decision under the 2007 Regulations has expired without an appeal being made; or
 - (ii) an appeal made under regulation 36(1) of the 2007 Regulations against a decision taken or deemed to be taken under regulation 34 has been determined.
- (3) The provisions of the 2007 Regulations continue to apply on and after exit day as they had effect immediately before exit day, but subject to the modifications specified in sub-paragraph (4), in relation to—
- (a) the application concerned; and
 - (b) any appeal under regulation 36 of the 2007 Regulations against a decision made under regulation 34 in relation to that application.
- (4) The modifications to the 2007 Regulations are as follows—
- (a) the United Kingdom is to be treated as falling within the definition of “relevant European State”;
 - (b) regulation 5 is to be read as if—
 - (i) paragraph (2) were omitted;
 - (ii) in paragraph (3), for “shall” there were substituted “may”;
 - (iii) paragraph (5) were omitted;
 - (iv) for paragraph (7), there were substituted—

“(7) A competent authority must provide applicants with all information about the requirements, procedures and formalities they need to complete to gain access to and pursue their regulated professions.”.
 - (c) in regulation 32(1) is to be read as if for “require” there were substituted “request”.
- (5) In this paragraph, “applicant” has the meaning in regulation 6(3) of the 2007 Regulations, as they had effect immediately before exit day.

Certificates of Experience – Chapter 3 of Part 3 of the 2007 Regulations - transitional and saving provision

49.—(1) Where, before exit day, a person has applied to ECCTIS Limited for a Certificate of Experience under regulation 29 of the 2007 Regulations—

- (a) that regulation; and
- (b) any other provision of the 2007 Regulations so far as it relates to regulation 29,

continue to apply on and after exit day as they had effect immediately before exit day in relation to that application.

(2) Regulation 30 of the 2007 Regulations continues to apply on and after exit day as it had effect immediately before exit day in relation to any Certificate of Experience issued by ECCTIS under the 2007 Regulations.