

SCHEDULES

SCHEDULE 10

Regulation 11

Social care workers in Northern Ireland

PART 1

Amendments to legislation

Interpretation

1. In this Schedule, “the 2001 Act” means the Health and Personal Social Services Act (Northern Ireland) 2001.

Commencement Information

I1 Sch. 10 para. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Health and Personal Social Services Act (Northern Ireland) 2001

2. The 2001 Act is amended as follows.

Commencement Information

I2 Sch. 10 para. 2 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

3. In section 2 (“social care worker” etc.)^{M1}, omit subsections (5) to (7).

Commencement Information

I3 Sch. 10 para. 3 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Marginal Citations

M1 Subsections (5) to (7) were inserted by [S.I. 2007/3101](#). Relevant amending instrument is [S.I. 2016/1030](#).

4. In section 3 (the register)^{M2}—
- (a) in subsections (1) and (2)—
 - (i) at the end of paragraph (a), insert “ and ”;
 - (ii) omit paragraph (c) (and the “and” before it);
 - (b) omit subsection (2A)(c).

Status: Point in time view as at 31/12/2020.

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, SCHEDULE 10.* (See end of Document for details)

Commencement Information

I4 Sch. 10 para. 4 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)**

Marginal Citations

M2 Subsection (1)(c) was inserted by, and subsections (2)(c) and (2A)(c) were substituted by **S.I. 2007/3101**.

5. Omit section 5A (visiting social workers from relevant European States) ^{M3}.

Commencement Information

I5 Sch. 10 para. 5 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)**

Marginal Citations

M3 section 5A was inserted by **S.I. 2007/3101**. Relevant amendments made by the **Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)** (N.I.).

6. In section 7 (rules about registration) ^{M4}, in paragraph (c), omit “under section 5A(6) or”.

Commencement Information

I6 Sch. 10 para. 6 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)**

Marginal Citations

M4 Relevant amending instrument is **S.I. 2007/3101**.

7. In section 7A (power to obtain information etc.) ^{M5}, in subsection (1), omit “, 5A”.

Commencement Information

I7 Sch. 10 para. 7 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)**

Marginal Citations

M5 Section 7A was inserted by the **Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23)** (N.I.).

8. In section 8 (registration – enforcement) ^{M6}, in subsection (1)—

- (a) omit “or a visiting social worker from a relevant European State”;
- (b) in paragraph (b) for the words “registered in either of those ways” substitute “ so registered”.

Commencement Information

I8 Sch. 10 para. 8 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)**

Marginal Citations

M6 Relevant amendments made by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016. Relevant amending instrument is [S.I. 2007/3101](#).

9. In section 11 (qualifications gained outside Northern Ireland) ^{M7}, omit subsection (A1).

Commencement Information

I9 Sch. 10 para. 9 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M7 Subsection A1 was inserted by [S.I. 2007/3101](#). Relevant amendments made by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016.

10. In section 12 (post registration training) ^{M8}, omit subsections (2A) to (2D).

Commencement Information

I10 Sch. 10 para. 10 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M8 Subsections (2A) to (2D) were substituted by [S.I. 2007/3101](#).

11. In section 15 (appeals to the Care Tribunal) ^{M9}—

- (a) in subsection (2)(b), omit the words from “or, in” to “amended”;
- (b) omit subsection (3)(b) and (c).

Commencement Information

I11 Sch. 10 para. 11 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M9 Section 15 was substituted by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016. Relevant amending instrument is [S.I. 2016/1030](#).

12. In section 18 (rules) ^{M10}—

- (a) in subsection (1), omit “, but subject to subsection (2A)”;
- (b) in subsection (2)(a), omit “, but subject to subsection (2A)”;
- (c) omit subsection (2A).

Commencement Information

I12 Sch. 10 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\(2\)](#)

Status: Point in time view as at 31/12/2020.

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, SCHEDULE 10.* (See end of Document for details)

Marginal Citations

M10 Relevant amending instrument is [S.I. 2007/3101](#).

PART 2

Savings and transitional provision

Pending applications

13. Where an application for registration, or renewal or restoration of registration, in the register kept under the 2001 Act is received before [^{F1}IP completion day], any provision made by the 2001 Act continues to apply in relation to the application (including any appeal arising from it) without the amendments made by Part 1 of this Schedule.

Textual Amendments

F1 Words in Sch. 10 para. 13 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), **18(2)**

Commencement Information

I13 Sch. 10 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\(2\)](#)

Visiting social work professionals: saving of old law for up to [^{F2}five years]

14.—(1) Where—

- (a) a person had, immediately before [^{F3}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 5A(3) of the 2001 Act accordingly applied to the person), and
- (b) the person continues to have that benefit on or after [^{F4}IP completion day],

any provision made by or under the 2001 Act 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 social workers from relevant European states [^{F5}(but subject, in the case of a relevant applicant, to the modifications to the 2001 Act specified in sub-paragraph (4))].

[^{F6}(1A) Where sub-paragraph (1) applies in relation to a visiting social worker who is a relevant applicant, that visiting social worker may only provide services as a social worker for a period not exceeding 90 days in total in any calendar year.]

(2) Sub-paragraph (1) ceases to apply in relation to a visiting social worker—

- (a) if the worker is registered as required by section 5A(3) of the 2001 Act, when his or her name is removed under section 5A(6) of that Act;
- (b) otherwise, when the worker's entitlement ceases by reason of the operation of section 5A(5) of that Act.

(3) The reference in sub-paragraph (1) to “the provisions relating to visiting social work professionals from relevant European states” is to the following provisions of the 2001 Act—

- (a) section 2(5) to (7);
- (b) section 3(1), (2) and (2A);
- (c) section 5A;
- (d) section 7(c);
- (e) section 7A(1);
- (f) section 8(1);
- (g) section 12(2A) to (2D);
- (h) section 18(1), (2) and (2A).

[^{F7}(4) The modifications to the 2001 Act mentioned in sub-paragraph (1) are—

- (a) section 5A is to be read as if, in subsection (1), for the words from “an exempt person” to the end there were substituted “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 (“V”) who is lawfully established as a social worker in Switzerland”;
- (b) section 12 is to be read as if, in subsection (2D), for the words from “the relevant” to the end there were substituted “Switzerland”.

(5) Sub-paragraph (3) does not apply in the case of a Swiss visiting social care worker.

(6) But a Swiss visiting social care worker’s entitlement does not continue (or further continue) under section 5A of the 2001 Act on or after the end of the visiting practitioner transitional period.

(7) In this paragraph, “Swiss visiting social care worker” means a visiting social care worker who—

- (a) is a national of the United Kingdom or is a Swiss national, or
- (b) is a third country national, who was, immediately before IP completion day, by virtue of an enforceable EU right entitled to be treated, for the purposes of access to and pursuit of the profession of social care work, no less favourably than a national of the United Kingdom or Switzerland.]

Textual Amendments

- F2** Words in Sch. 10 para. 14 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), **18(3)(a)**
- F3** Words in Sch. 10 para. 14(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), **18(3)(b)(i)**
- F4** Words in Sch. 10 para. 14(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), **18(3)(b)(i)**
- F5** Words in Sch. 10 para. 14(1) 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), **18(3)(b)(ii)**
- F6** Sch. 10 para. 14(1A) 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), **18(3)(c)**
- F7** Sch. 10 para. 14(4)-(7) 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), **18(3)(d)**

Status: Point in time view as at 31/12/2020.

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, SCHEDULE 10.* (See end of Document for details)

Commencement Information

I14 Sch. 10 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)**

IMI alerts

15.—(1) Where an alert has been sent by the Northern Ireland Social Care Council before [^{F8}IP completion day] under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015, the decision to send the alert continues to be a relevant decision for the purposes of section 15 of the 2001 Act despite the repeal of section 15(3)(c).

(2) In disposing of an appeal against such a decision, the powers of the Care Tribunal are, instead of those set out in section 15(2) of the 2001 Act, to—

- (a) dismiss the appeal, or
- (b) allow the appeal and direct the Northern Ireland Social Care Council to take such steps as the Tribunal thinks fit to draw the findings of the Tribunal to the attention of the European Commission.

Textual Amendments

F8 Words in Sch. 10 para. 15(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), 18(4)**

Commencement Information

I15 Sch. 10 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)**

Interpretation of saved provisions

16. Where a provision continues to apply by virtue of [^{F9}paragraph 13, 14 or 15], it is to be read as if—

- (a) in section 2 of the 2001 Act—
 - (i) in subsection (5), at the end there were inserted—
 - “(a) in relation to anything done before [^{F10}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 [^{F10}IP completion day], in relation to an entitlement which arose before [^{F10}IP completion day] or arises as a result of anything done before [^{F10}IP completion day];”;
 - (ii) in subsection (7)—
 - (aa) for paragraphs (a) to (c) there were substituted—
 - “(a) a person who, immediately before [^{F11}IP completion day], was a national of a relevant European State,
 - (b) a person who, immediately before [^{F11}IP completion day], was a national of the United Kingdom and, at that time, was seeking

Status: Point in time view as at 31/12/2020.

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, SCHEDULE 10.* (See end of Document for details)

access to, or pursuing, the profession of [^{F12}social work] by virtue of an enforceable EU right, or

(c) a person who, immediately before [^{F11}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, for the purposes of access to and pursuit of the social work profession, 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 [^{F11}IP completion day]”;

(iii) after subsection (8) there were inserted—

“(8) “Enforceable EU right” means a right recognised and available in domestic law, immediately before [^{F13}IP completion day], by virtue of section 2(1) of the European Communities Act 1972;”;

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

Textual Amendments

F9 Words in Sch. 10 para. 16 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), **18(5)(a)**

F10 Words in Sch. 10 para. 16(a)(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), **18(5)(b)**

F11 Words in Sch. 10 para. 16(a)(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), **18(5)(b)**

F12 Words in Sch. 10 para. 16(a)(ii)(aa) 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), **18(5)(c)**

F13 Words in Sch. 10 para. 16(a)(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), **18(5)(b)**

Commencement Information

I16 Sch. 10 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)

[^{F14}Swiss social care workers: saving of old law

17.—(1) Where a registration application is received from a Swiss social care worker before the end of the Swiss recognition period, any provision made by or under the 2001 Act continues to apply in relation to the application (including any appeal arising from it) without the amendments that Part 1 of this Schedule makes to the provisions mentioned in sub-paragraph (3) (but subject to the modifications specified in sub-paragraph (4)).

(2) For the purposes of this paragraph, a “Swiss social care worker” is a qualifying applicant who had not, before IP completion day, made a registration application (other than an application for registration in the visiting European part of the register).

(3) The provisions of the 2001 Act mentioned in sub-paragraph (1) are—

Status: Point in time view as at 31/12/2020.

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, SCHEDULE 10.* (See end of Document for details)

- (a) section 2(5);
 - (b) section 3 other than subsections (1)(c) and (2A)(c);
 - (c) section 11.
- (4) The modifications to the 2001 Act mentioned in sub-paragraph (1) are—
- (a) section 2(5) is to be read as if at the end 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 of regulation 1A of the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019)”;
 - (b) section 11(A1) is to be read as if for the reference to an exempt person there were substituted a reference to a Swiss social care worker within the meaning given in paragraph 17 of this Part of this Schedule.]

Textual Amendments

- F14** Sch. 10 para. 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), **18(6)**

Commencement Information

- I17** Sch. 10 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\(2\)](#)

Status:

Point in time view as at 31/12/2020.

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, SCHEDULE 10.