

# 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.

#### Health and Personal Social Services Act (Northern Ireland) 2001

2. The 2001 Act is amended as follows.
3. In section 2 (“social care worker” etc.)(1), omit subsections (5) to (7).
4. In section 3 (the register)(2)—
  - (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).
5. Omit section 5A (visiting social workers from relevant European States)(3).
6. In section 7 (rules about registration)(4), in paragraph (c), omit “under section 5A(6) or”.
7. In section 7A (power to obtain information etc.)(5), in subsection (1), omit “, 5A”.
8. In section 8 (registration – enforcement)(6), 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”.
9. In section 11 (qualifications gained outside Northern Ireland)(7), omit subsection (A1).

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(1) Subsections (5) to (7) were inserted by [S.I. 2007/3101](#). Relevant amending instrument is [S.I. 2016/1030](#).  
(2) Subsection (1)(c) was inserted by, and subsections (2)(c) and (2A)(c) were substituted by [S.I. 2007/3101](#).  
(3) 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.).  
(4) Relevant amending instrument is [S.I. 2007/3101](#).  
(5) Section 7A was inserted by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23) (N.I.).  
(6) Relevant amendments made by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016. Relevant amending instrument is [S.I. 2007/3101](#).  
(7) Subsection A1 was inserted by [S.I. 2007/3101](#). Relevant amendments made by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016.

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10. In section 12 (post registration training)(8), omit subsections (2A) to (2D).
11. In section 15 (appeals to the Care Tribunal)(9)—
- (a) in subsection (2)(b), omit the words from “or, in” to “amended”;
  - (b) omit subsection (3)(b) and (c).
12. In section 18 (rules)(10)—
- (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).

## 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 exit 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.

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

14.—(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 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 exit 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.

(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);

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

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

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

- (e) section 7A(1);
- (f) section 8(1);
- (g) section 12(2A) to (2D);
- (h) section 18(1), (2) and (2A).

### **IMI alerts**

**15.**—(1) Where an alert has been sent by the Northern Ireland Social Care 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 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.

### **Interpretation of saved provisions**

**16.** Where a provision continues to apply by virtue of this Part, 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 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 anything done before exit day;”;
  - (ii) in subsection (7)—
    - (aa) 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 chiropractic 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 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 exit day”;
  - (iii) after subsection (8) there were inserted—

“(8) “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;”;

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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.