

SCHEDULES

SCHEDULE 5

Opticians

PART 2

Savings and transitional provision

Pending applications

25. Where an application for—

- (a) entry in, or restoration to, a register kept under the 1989 Act, or
- (b) the entry, or restoration of an entry, of particulars of a specialty in such a register,

is received before exit day, any provision made by or under that 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 opticians: saving of old law for up to one year

26.—(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 an optometrist or dispensing optician (and section 8C(3) or 8D(3) of the 1989 Act accordingly applied to the person), and
- (b) the person continues to have that benefit on or after exit day,

any provision made by an Act or instrument amended by Part 1 of this Schedule 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 opticians from relevant European states.

(2) Sub-paragraph (1) ceases to apply in relation to a visiting optometrist or dispensing optician—

- (a) if the optometrist or optician is registered as required by section 8C(3) or 8D(3) of the 1989 Act, when his or her name is removed under section 8C(6) or 8D(6) of the Act;
- (b) otherwise, when his or her entitlement ceases by reason of the operation of section 8C(5) or 8D(5) of the Act.

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

<i>Act or instrument</i>	<i>Provision relating to visiting opticians</i>
The 1989 Act	sections 8B to 8D
	section 10(1)(c) and (1ZA)
	section 10A(11)

Status: This is the original version (as it was originally made).

<i>Act or instrument</i>	<i>Provision relating to visiting opticians</i>
	section 11A(5) to (7)
	section 11B(1A) to (1C)
	section 29(2A)
	section 36(1)
	Schedule 1, paragraph 1A(1)(b)(ii)
National Health Service (Scotland) Act 1978	section 108(1)
National Health Service (General Ophthalmic Services) Regulations 1986	regulation 2(1)
National Health Service (Service Committees and Tribunal) Regulations 1992	regulation 2(1)
Medicines for Human Use (Clinical Trials) Regulations 2004	regulation 2(1)
General Optical Council (Registration) Rules 2005	rules 2(1A), 21A and 21B
National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006	regulation 2(1)
National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009	regulation 2(1)
Patient Rights (Treatment Time Guarantee) (Scotland) Regulations 2012	regulation 1(2)
Human Medicines Regulations 2012	regulation 8(1)

IMI alerts

27.—(1) Where an alert has been sent by the General Optical 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 appealable for the purposes of section 23G of the 1989 Act (subject to the provisions of that Act) despite the repeal of section 23G(1)(e).

(2) In disposing of such an appeal, the powers of the relevant court continue to be those set out in section 23G(8) of the 1989 Act (as it had effect before the coming into force of these Regulations), but as if for “that the alert be withdrawn or amended” there were substituted “the Council to take such steps as the relevant court considers fit to draw the findings of the court to the attention of the European Commission”.

Interpretation of saved provisions

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

(a) in section 36(1) of the 1989 Act—

(i) 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;”;

(ii) 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 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, no less favourably than a national of a relevant European State;”;
- (iii) in the definition of “General Systems Regulations”, 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 something done before exit day;”;
- (b) in any reference to a relevant European State other than the United Kingdom, the words “other than the United Kingdom” were omitted.