
STATUTORY INSTRUMENTS

2007 No. 2781

The European Communities (Recognition of Professional Qualifications) Regulations 2007

PART 1

GENERAL PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the European Communities (Recognition of Professional Qualifications) Regulations 2007.

(2) These Regulations come into force on 19th October 2007.

Interpretation

2.—(1) In these Regulations the following words and phrases have the following meanings—

“adaptation period” has the meaning given to it by regulation 23;

“another relevant European State” means a relevant European State other than the United Kingdom;

“applicant” has the meaning given to it by regulations 6(3) and (4);

“aptitude test” has the meaning given to it by regulation 24;

“competent authority”—

(a) in relation to the United Kingdom, has the meaning given by regulation 4(1) to (3),

(b) in relation to another relevant European State, has the meaning given by regulation 4(4), and unless the context otherwise requires, a reference to a competent authority is a reference to a competent authority in relation to the United Kingdom;

“the Directive” means Directive [2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications⁽¹⁾;

“enactment” includes—

(a) an enactment contained in subordinate legislation within the meaning given by subsection (1) of section 21 of the Interpretation Act 1978⁽²⁾ 1978, except that the definition of that term in that subsection shall have effect as if “Act” included Northern Ireland legislation, and

(b) an enactment contained in an Act of the Scottish Parliament or in an instrument made under such an Act;

“evidence of formal qualifications” has the meaning given to it in regulation 7(2);

(1) OJ No L 255, 30.9.2005, p.22, as amended by Council Directive [2006/100/EC](#) of 20th November 2006, OJ No L 363, 20.12.2006, p.141.

(2) [1978 c. 30](#).

“home State” means the relevant European State from which an applicant originates or comes or in which the applicant obtained his professional qualifications or in which he lawfully practised;

“holder” means a person to whom a competent authority of a relevant European State has awarded professional qualifications;

“host State” means the relevant European State to which an applicant applies for access to or pursuit of a regulated profession in its territory, which is contingent on possession of specific professional qualifications;

“manager of an undertaking” means any person who in any undertaking in the occupational field in question has pursued an activity:

- (a) as a manager of an undertaking or a manager of a branch of an undertaking;
- (b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking;

“native applicant” means a person whose qualifications were obtained wholly within the United Kingdom applying to a competent authority for authorisation to practise for the purposes of access to or pursuit of a regulated profession or any professional lawfully pursuing that profession in the United Kingdom;

“practice” in relation to any regulated profession includes—

- (a) the taking up or pursuit of that profession in a relevant European State, whether in a self employed capacity or as an employed person; and
- (b) in the course of such pursuit—
 - (i) the right to use a professional title or designatory letters; and
 - (ii) the enjoyment of the benefit of the status associated with membership of the profession;

“profession” includes occupation or trade;

“professional association” means an association or organisation recognised in a special form, the purpose of which is, in particular, to promote and maintain a high standard in the professional field with which it is concerned and which, to that end—

- (a) prescribes and enforces respect within its membership for rules of professional conduct and awards professional qualifications to its members; and
- (b) confers on its members the right to use one or more professional titles or designatory letters or to benefit from a status corresponding to that professional qualification;

“professional experience” means the actual and lawful pursuit of the profession concerned;

“professional qualifications” has the meaning given to it in regulation 7(1);

“professional rules” mean rules of a professional, statutory or administrative nature which are directly linked to professional qualifications, such as the definition of the profession, the use of titles, and serious professional malpractice which is directly and specifically linked to consumer protection and safety, as well as disciplinary provisions which are applicable to professionals who pursue the same profession;

“regulated education and training” has the meaning given to it in regulation 6(2);

“regulated profession” has the meaning given to it by regulation 6(1);

“relevant European State” means an EEA State or Switzerland;

“same profession” means the profession for which the applicant is qualified in his home State if the activities covered are comparable;

“sectoral professions” means one or more of the following regulated professions namely that of doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect;

“third country” means a country other than a relevant European State.

(2) References in these Regulations to the Directive or a provision of the Directive are references to the Directive or a provision of the Directive as amended from time to time.

(3) A reference in these Regulations to the United Kingdom shall, as the context requires, be taken to include a reference to any one or more of: England, Wales, Scotland, and Northern Ireland.

(4) For the purposes of these Regulations, an association or organisation established in the United Kingdom shall be taken to have been recognised in special form if the mode of its establishment was incorporation by Royal Charter.

Application

3.—(1) Subject to paragraphs (3) to (10), the provisions listed in paragraph (2) apply to applicants.

(2) Those provisions are—

- (a) regulation 5(1) to (5);
- (b) Part 2 (Freedom to provide services on a temporary basis);
- (c) Chapters 1, 2 and 4 of Part 3 (Freedom of establishment);
- (d) regulation 36; and
- (e) regulation 37.

(3) The provisions listed in paragraph (2) apply to the sectoral professions only as mentioned in paragraph (4).

(4) The following provisions apply to the sectoral professions in cases within any of subparagraphs (a) to (e) of paragraph (9) where the applicant for specific and exceptional reasons does not satisfy the requirements for automatic recognition or recognition on the basis of acquired rights, namely—

- (a) except for the profession of architect, regulations 9(1) and (2) and 14 to 16;
- (b) Chapter 1 of Part 3 except regulation 27;
- (c) Chapter 4 of Part 3 except regulation 34(3); and
- (d) regulation 37.

(5) Chapter 2 of Part 3 applies only to professions listed in Part 3 of Schedule 1.

(6) The provisions listed in paragraph (2) apply to the professions listed in Part 3 of Schedule 1 only as mentioned in paragraphs (5), (7) and (8).

(7) The following provisions apply to professions listed in Part 3 of Schedule 1—

- (a) regulation 5(1) to (5);
- (b) Part 2;
- (c) Chapter 4 of Part 3;
- (d) regulation 36; and
- (e) regulation 37.

(8) In addition, Chapter 1 of Part 3 applies to professions listed in Part 3 of Schedule 1 in cases where the applicant for specific and exceptional reasons does not meet the requirements set out in Schedule 4.

(9) The cases mentioned in paragraph (4) are—

- (a) for applicants who are doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects when the applicant does not meet the requirements of effective and lawful professional practice required in Articles 23, 27, 33, 37, 39, 43 and 49 of the Directive (acquired rights),
- (b) for applicants who are architects, when the applicant holds evidence of formal qualifications not listed in Annex V point 5.7 of the Directive,
- (c) without prejudice to the provisions of Articles 21(1), 23 and 27 of the Directive (automatic recognition and acquired rights), for applicants who are doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects holding evidence of formal qualifications as a specialist, which must follow the training leading to the possession of a title listed in Annex V of the Directive, points 5.1.1, 5.2.2, 5.3.2, 5.4.2, 5.5.2, 5.6.2, and 5.7.1 of the Directive, solely for the purposes of the recognition of the relevant speciality,
- (d) for applicants who are specialised nurses without training as a general care nurse, where, in the United Kingdom, the relevant professional activities are pursued by nurses responsible for general care, specialised nurses without training as general care nurses or specialised nurses holding evidence of formal qualifications as a specialist which follows the training leading to the possession of the titles listed in Annex V, point 5.2.2 of the Directive, and
- (e) for applicants whose qualifications were obtained in a third country and, if wishing to access and pursue a sectoral profession in the United Kingdom on a permanent basis—
 - (i) who have, in the relevant sectoral profession, three years' professional experience on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the applicant to pursue the profession on its territory in accordance with its rules; and
 - (ii) whose three years' professional experience is certified by that State.

(10) Part 2 does not apply—

- (a) to any of the professions listed in Part 2 of Schedule 1; and
- (b) to the profession of solicitor in England and Wales, Northern Ireland or Scotland or the profession of barrister in England and Wales or Northern Ireland, or the profession of advocate in Scotland where the European Communities (Services of Lawyers) Order 1978(3) applies.

(11) These Regulations do not apply to the profession of company auditor as defined in section 24(2) of the Companies Act 1989(4) and Article 27(2) of the Companies (Northern Ireland) Order 1990(5).

Competent authorities

4.—(1) In the case of a regulated profession listed in any of Parts 1 to 3 of Schedule 1, the competent authority in the United Kingdom for the purposes of the Directive so far as relating to that profession is the body or authority specified in relation to that profession in that Part of that Schedule.

(3) S.I. 1978/1910, amended by S.I. 1980/1964, 1981/228, 1991/2684, 2004/1117 and 2007/259, S.S.I. 2004/186 and 2007/359.

(4) 1989 c.40

(5) S.I. 1990/593 (N.I.5)

(2) In the case of a regulated profession that is regulated in the United Kingdom but is not listed in Schedule 1, the competent authority in the United Kingdom for the purposes of the Directive so far as relating to that profession is the governing body of that profession in the United Kingdom.

(3) In these Regulations “competent authority”, in relation to a profession listed in Part 4 of Schedule 1, means the body or authority specified in relation to that profession in that Part of that Schedule.

(4) For the purposes of these Regulations, the competent authority in another relevant European State in relation to—

- (a) any document, certificate, attestation of competence, diploma or qualification,
- (b) any period of professional experience, or
- (c) any application, action or decision,

is the authority, body or person who under laws, regulations or administrative provisions is authorised in that State to issue, award or recognise the document or information concerned or (as the case may be) to certify the period of professional experience, to receive the application or to take the action or decision.

Functions of competent authorities in the United Kingdom

5.—(1) Without prejudice to its other powers and functions, a competent authority shall have the function of receiving and considering applications by applicants and taking the actions and decisions referred to in these Regulations.

(2) Competent authorities shall—

- (a) work in close collaboration with competent authorities of other relevant European States;
- (b) provide assistance to competent authorities of other relevant European States in order to facilitate application of these Regulations; and
- (c) ensure the confidentiality of the information which they exchange.

(3) Competent authorities shall exchange information with competent authorities of other relevant European States regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under these Regulations.

(4) Pursuant to paragraph (3), a competent authority receiving information from a competent authority of another relevant European State on disciplinary action or criminal sanctions, shall:

- (a) examine the veracity of the circumstances,
- (b) decide on the nature and scope of the investigations which need to be carried out, and
- (c) inform that authority of the conclusions which it draws from the information available to it.

(5) If the holder of a qualification awarded by a competent authority requests, either in writing or by electronic means, that authority to provide him with any information or evidence as listed in Annex VII of the Directive in support of his application to practise a profession in another relevant European State which regulates that profession, the competent authority shall produce that information or evidence to the holder within the time limits set down in that Annex or, if there are no time limits, as soon as is reasonably practicable following the request of the holder.

(6) Competent authorities shall also act as contact points for their regulated professions.

(7) Contact points shall in addition to the function set out in regulation 38(2):

- (a) provide citizens and the contact points of other relevant European States with such information as is necessary concerning the recognition of professional qualifications, such as information on the national legislation governing the regulated profession concerned

and pursuit of that profession, including social legislation, and where appropriate the rules of ethics;

- (b) on receipt of an enquiry, assist citizens in realising the rights conferred on them by the Directive, in cooperation, where appropriate, with other contact points and competent authorities.

Regulated profession, regulated education and training and applicants

6.—(1) In these Regulations, “regulated profession” means—

- (a) in relation to the United Kingdom—
 - (i) a profession listed in any of Parts 1, 3 and 4 of Schedule 1;
 - (ii) a profession practised by members of a professional association who have a title or designation set out in Part 2 of Schedule 1;
 - (iii) a professional activity or group of activities access to which, the pursuit of which or one of the modes of pursuit of which is subject (directly or indirectly) by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications; or
 - (iv) a professional activity or group of activities pursuit of which is by persons using a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification;
- (b) in relation to another relevant European State, a professional activity, or group of professional activities, which constitutes a profession if and in so far as the activity, or group of activities, is regulated in that State as a professional activity.

(2) “Regulated education and training” means education and training which is—

- (a) listed in Annex III of the Directive; or
- (b) directly geared to the practice of a profession in a relevant European State, and comprises a course or courses complemented where appropriate by professional training or probationary or professional practice, the structure and level of which are determined by the laws, regulations or administrative provision of that relevant European State or which are monitored or approved by the competent authority in a relevant European State.

(3) For the purposes of Part 2, and of any other provision of these Regulations so far as relating to Part 2, “applicant” means an individual—

- (a) who wishes to access and pursue a regulated profession in the United Kingdom on a temporary and occasional basis, whether in an employed or self-employed capacity;
- (b) who is a national of a relevant European State or who, although not a national of such a State, is by virtue of any enforceable Community right entitled to be treated, for the purposes of access to and pursuit of a regulated profession, no less favourably than a national of such a State;
- (c) whose qualifications were obtained in a relevant European State or a third country;
- (d) who is legally established in his home State for the purpose of pursuing the same profession there; and
- (e) who, if neither that profession nor the education and training leading to it is regulated in his home State, has pursued that profession in that State for at least two years during the ten years preceding the provision of services.

(4) For the purposes of Chapters 1, 2 and 4 of Part 3, and of any other provision of these Regulations so far as relating to those Chapters, “applicant” means an individual—

- (a) who wishes to access and pursue a regulated profession in the United Kingdom on a permanent basis, whether in an employed or self-employed capacity;
- (b) who is a national of a relevant European State or who, although not a national of such a State, is by virtue of any enforceable Community right entitled to be treated, for the purposes of access to and pursuit of a regulated profession, no less favourably than a national of such a State;
- (c) whose qualifications were obtained in a relevant European State or a third country; and
- (d) who, if his qualifications were obtained in a third country, has three years' professional experience in the profession concerned—
 - (i) on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the individual to pursue the profession on its territory in accordance with its rules, and
 - (ii) certified by that State.

Professional qualifications and evidence of formal qualifications

- 7.—(1) In these Regulations, subject to regulation 8(2), “professional qualifications” means—
- (a) qualifications attested by evidence of formal qualifications,
 - (b) an attestation of competence issued by a competent authority in the home State on the basis as set out in regulation 20(a); and/or
 - (c) professional experience.
- (2) “Evidence of formal qualifications” means—
- (a) diplomas, certificates and other evidence issued by an authority in a relevant European State certifying successful completion of professional training obtained mainly in one or more relevant European States; or
 - (b) where paragraph (a) does not apply, diplomas, certificates and other evidence issued by a third country if the holder has three years' professional experience—
 - (i) on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the applicant to pursue the profession on its territory in accordance with its rules, and
 - (ii) certified by that State.

PART 2

FREEDOM TO PROVIDE SERVICES ON A TEMPORARY BASIS

Right to practise in the United Kingdom

8.—(1) Subject to the provisions in regulations 9 to 17, a competent authority shall not, for any reasons related to professional qualifications, restrict an applicant who moves to the United Kingdom to provide professional services.

(2) In this Part, references to “professional qualifications” shall include, in respect of an applicant whose qualifications were obtained in a third country, those qualifications.

9.—(1) The provisions of this Part shall only apply where the applicant moves to the United Kingdom to provide professional services on a temporary and occasional basis.

(2) The competent authority shall assess on a case by case basis whether the provision of professional services is on a temporary and occasional basis in particular in relation to its duration, its frequency, its regularity and its continuity.

(3) Where the applicant moves to the United Kingdom, he shall be subject to the professional rules of the bodies referred to in Parts 1 and 3 of Schedule 1.

Exemptions

10.—(1) Pursuant to regulation 8 and subject to paragraph (2), competent authorities shall exempt applicants established in another relevant European State from the requirements which it places on professionals established in the United Kingdom relating to:

- (a) authorisation by, registration with or membership of a professional organisation or body; and
- (b) registration with a public social security body for the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons.

(2) Competent authorities may, in order to facilitate the application of disciplinary provisions in professional, statutory or administrative rules, provide either for automatic temporary registration or for pro-forma membership if such registration or membership:

- (a) does not delay or complicate in any way the provision of services, and
- (b) does not entail any additional costs for the applicant.

(3) For the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons, the applicant shall inform in advance or, in an urgent case afterwards, the body referred to in paragraph (1)(b).

Declaration and documents to be provided on the first provision of service

11.—(1) Competent authorities shall require that where an applicant first moves from another relevant European State to the United Kingdom in order to provide services in a regulated profession, the applicant shall inform the appropriate competent authority by way of a declaration.

(2) The declaration shall—

- (a) be made in advance of the service being provided,
- (b) include the details of any insurance cover or other means of personal or collective protection with regard to professional liability, and
- (c) be renewed once a year if the applicant intends to provide temporary or occasional services in the United Kingdom during that year.

(3) The declaration or renewal supplied to the competent authority shall be provided in writing and may be supplied by any means.

12.—(1) Competent authorities shall require that the declaration be accompanied by the documents in paragraph (2):

- (a) for the first provision of services, or
- (b) if there is a material change in the situation substantiated by the documents.

(2) The documents that shall be required are:

- (a) proof of nationality of the applicant or, where he is not a national of a relevant European State, proof of the Community right on which he relies,

- (b) an attestation certifying that the applicant is legally established in another relevant European State for the purpose of pursuing the activities concerned and that he is not prohibited from practising, even temporarily, at the moment of delivering the attestation,
- (c) evidence of professional qualifications,
- (d) for cases referred to in regulation 6(3)(e), any means of proof that the applicant has pursued the activity concerned for at least two years during the previous ten years, and
- (e) for professions in the security sector, evidence of no criminal convictions.

Title under which professional services are provided

13.—(1) Subject to paragraph (2), the applicant on providing services in the United Kingdom shall:

- (a) use the professional title applicable to that profession in the home State, if that title exists within that State for the professional activity,
- (b) indicate that title in the official language or one of the official languages of the home State in such a way as to avoid confusion with the professional title of the profession in the United Kingdom; and
- (c) where no professional title exists in the home State, indicate his formal qualification in the official language or one of the official languages of that home State.

(2) On verification of qualifications where regulation 14, or where both regulations 14 and 15, apply, the applicant on providing services shall use the professional title applicable to that profession in the United Kingdom.

Checks for professions having public health or safety implications

14.—(1) This regulation and regulations 15 and 16 apply in the case of applicants in a regulated profession which has public health or safety implications, namely—

- (a) a profession listed in Schedule 2;
- (b) a sectoral profession, except the profession of architect, in a case described in regulation 3(9).

(2) Subject to paragraph (3), for regulated professions referred to in paragraph (1), the competent authority shall check the professional qualifications of the applicant prior to the first provision of services.

(3) Such prior check shall be possible only where the purpose of the verification is justified and proportionate in the profession concerned in order to avoid serious damage to the health or safety of the recipient of the service, due to a lack of professional qualifications of the applicant, and where this check does not go beyond what is necessary to achieve that purpose.

15.—(1) Subject to regulation 16, the competent authority for a profession which has public health or safety implications shall, prior to the first provision of services, give the applicant the opportunity to show that he has acquired the knowledge or competence lacking where:

- (a) the result of a check under regulation 14 demonstrates that there is a substantial difference between the professional qualifications of the applicant and the training required to access and pursue the regulated profession in the United Kingdom, and
- (b) the substantial difference is such as to be harmful to public health or safety.

(2) In the circumstances specified in paragraph (1), the applicant shall demonstrate that he has acquired the knowledge or competence lacking, in particular, by taking and passing an aptitude test.

16.—(1) The competent authority shall, within the first month of receipt of the declaration and accompanying documents, endeavour to inform the applicant of the outcome of such a check.

(2) Where there is a difficulty which would result in delay of that decision, the competent authority shall send a duly substantiated request for further information to the applicant within that one month period in paragraph (1) stating the reason for the delay and the timescale for its decision.

(3) In the event of a delay being notified to the applicant pursuant to paragraph (2), the competent authority shall make a decision within the second month of the receipt of completed documentation.

(4) Where the competent authority gives the applicant the opportunity under regulation 15(1) to show that he has acquired the knowledge and competence lacking, the competent authority shall give the applicant that opportunity within one month of the decision referred to in paragraph (1) or (3).

(5) In the absence of a reaction from the competent authority within the periods stipulated in paragraphs (1), (3) and (4), the applicant may provide the services in the United Kingdom.

Non compliance

17.—(1) An applicant shall no longer be entitled to provide services in the profession that he is pursuing in United Kingdom in accordance with this Part nor retain any temporary registration, if—

- (a) he becomes established in that profession in the United Kingdom; or
- (b) he is subject to a decision of the competent or judicial authority of the relevant European State in which he is established which has the effect that he is no longer lawfully established in that State or that he is prohibited (even temporarily) from practising that profession there.

(2) Where—

- (a) under regulation 11 an applicant should have, but has not, renewed (or further renewed) a declaration under that regulation; and
- (b) under the professional rules concerned, a sanction is imposed by reference to the failure to renew,

the sanction is of no effect if, or so far as, it is not in the circumstances of the case proportionate to the failure to renew.

(3) Where under an enactment any register is maintained of persons engaged in the profession concerned, the competent authority for the profession, as a sanction for the failure to renew, may cause the applicant's name to be removed from that register.

(4) For the purposes of paragraph (2)(b), paragraph (3) is part of the professional rules concerned.

Administrative cooperation and service provision

18.—(1) Competent authorities:

- (a) may ask the competent authorities of the home State, for each provision of services, to provide any information relevant to the legality of the applicant's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature,
- (b) shall provide this information to the competent authorities of other relevant European States in accordance with regulation 5(2), (3), and (4), and
- (c) on receiving a complaint by a recipient of a service against an applicant, shall ensure the exchange of all information necessary for complaints to be correctly pursued.

(2) The competent authority shall, on receiving a complaint described in paragraph (1)(c), inform the recipient of the outcome of the complaint.

Information to be given to a recipient of professional services or service

19. Where the service is provided under the professional title of the home State or under the formal qualification of the applicant, a competent authority may require the applicant to furnish the recipient of the service with any or all of the following information:

- (a) if the applicant is registered in a commercial register or similar public register, the register in which he is registered, his registration number, or equivalent means of identification contained in that register;
- (b) if the activity is subject to authorisation in the home State, the name and address of the competent or supervisory authority;
- (c) any professional association or similar body with which the applicant is registered;
- (d) the professional title or, where no such title exists, the formal qualification of the applicant and relevant European State in which it was awarded;
- (e) if the applicant performs an activity which is subject to VAT, the VAT identification number referred to in Article 22(1) of the Sixth Council Directive 77/388/EEC⁽⁶⁾; and
- (f) details of any insurance cover or other means of personal or collective protection with regard to professional liability.

PART 3

FREEDOM OF ESTABLISHMENT

CHAPTER 1

GENERAL SYSTEM FOR THE RECOGNITION OF TRAINING

Levels of qualification

20. For the purpose of applying conditions of recognition under regulation 22, professional qualifications are grouped under the following levels as set out below—

- (a) an attestation of competence issued by a competent authority of a relevant European State on the basis of either:
 - (i) a training course not forming part of a certificate or diploma within the meaning of paragraphs (b), (c), (d) or (e), or a specific examination without prior training, or full-time pursuit of the profession in another relevant European State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years, or
 - (ii) general primary or secondary education, attesting that the holder has acquired general knowledge;
- (b) a certificate attesting to a successful completion of a secondary course either:
 - (i) general in character, supplemented by a course of study or professional training other than that referred to in paragraph (c) and/or by the probationary or professional practice required in addition to that course, or
 - (ii) technical or professional in character, supplemented where appropriate by a course of study or professional training as referred to in sub-paragraph (i), and/or by the probationary or professional practice required in addition to that course;
- (c) a diploma certifying successful completion of either—

(6) OJ L 145, 13.6.1977, p.1.

- (i) training at post-secondary level other than that referred to in paragraphs (d) and (e) of a duration of at least one year or of an equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education or the completion of equivalent school education of the second secondary level, as well as the professional training which may be required in addition to that post-secondary course; or
- (ii) in the case of a regulated profession, training with a special structure as set out in Annex II of the Directive, equivalent to the level of training provided for under sub-paragraph (i), which provides a comparable professional standard and which prepares the trainee for a comparable level of responsibilities and functions;
- (d) a diploma certifying successful completion of training at post-secondary level of at least three and not more than four years duration, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment providing the same level of training, as well as the professional training which may be required in addition to that post-secondary course;
- (e) a diploma certifying that the holder has successfully completed a post-secondary course of at least four years duration, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course.

Equal treatment of qualifications

21.—(1) Any evidence of formal qualifications or set of evidence of formal qualifications shall be treated as evidence of formal qualifications of a type covered by regulation 20, including the level in question if such evidence or set of evidence—

- (a) is issued by the competent authority of a relevant European State certifying successful completion of training in any of the relevant European States which is recognised by that relevant European State as being of an equivalent level, and
- (b) confers on the holder the same rights of access to or pursuit of a profession or prepares the applicant for the pursuit of that profession.

(2) Any professional qualification shall be treated as evidence of formal qualifications under the same conditions as set out in paragraph (1) where such professional qualification:

- (a) does not satisfy the requirements contained in the legislative, regulatory or administrative provisions in force in the home State for access to or the pursuit of a profession, but
- (b) confers on the holder acquired rights by legislative, regulatory or administrative provisions in force in the home State.

(3) Paragraph (2) applies, in particular, where—

- (a) the home State raises the level of training required for admission to a profession and for its exercise, and
- (b) an applicant, having undergone former training which does not meet the requirements of the new qualification, benefits from acquired rights by virtue of legislative, regulatory or administrative provisions in the home State.

(4) Where the circumstances of paragraph (3) apply, the former training shall be considered by competent authorities as corresponding to the level of the new training.

Conditions for recognition

22.—(1) Subject to a requirement by the competent authority pursuant to regulation 25, if access to or pursuit of a regulated profession in United Kingdom is contingent on possession of specific qualifications, a competent authority shall permit access to and pursuit of that regulated profession to an applicant under the same conditions as apply to native applicants, where that applicant—

- (a) possesses the attestation of competence or evidence of formal qualifications required by another relevant European State, where the profession is regulated, in order to gain access to and pursue that same profession in that relevant European State, or
- (b) has pursued that same profession on a full time basis for two years during the previous ten years in another relevant European State which does not regulate that profession, provided that the applicant possesses one or more attestations of competence or documents providing evidence of formal qualifications.

(2) Attestations of competence or evidence of formal qualifications shall satisfy the following conditions:

- (a) they shall have been issued by a competent authority of another relevant European State;
- (b) subject to paragraph (5), they shall attest a level of professional qualification at least equivalent to the level immediately prior to that which is required in the United Kingdom; and
- (c) where paragraph (1)(b) applies, they shall also attest that the applicant has been prepared for the pursuit of the profession in question.

(3) A competent authority may not require the two years professional experience referred to in paragraph (1)(b) if:

- (a) the evidence of formal qualifications which the applicant possesses certifies regulated education and training, and
- (b) such certified regulated education and training is at the levels of qualifications described in regulation 20, paragraphs (b), (c), (d) or (e).

(4) The regulated education and training listed in Annex III of the Directive shall be considered as such regulated education and training at the level described in regulation 20(c).

(5) A competent authority shall permit access to and pursuit of a regulated profession where access to this profession is contingent in the United Kingdom on possession of a qualification certifying successful completion of higher or university education of four years duration, and where the applicant possesses a qualification referred to in regulation 20(c).

Compensation measures - adaptation periods and aptitude tests

23.—(1) An adaptation period means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a period of pursuit of a regulated profession under the supervision of a qualified member of that profession, subject to an assessment of the ability of the applicant to pursue that profession in the United Kingdom.

(2) The competent authority shall clearly set out the detailed rules governing the adaptation period and its assessment, having regard to the circumstances of each individual applicant and, in particular, to the fact that he is a qualified professional in another relevant European State.

(3) The applicant may be required to undergo further training during the adaptation period.

(4) The applicant's performance during the adaptation period shall be assessed by the competent authority.

(5) The professional status of an applicant during the adaptation period shall be a matter for the competent authority.

24.—(1) An aptitude test means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a test of the applicant’s professional knowledge conducted by the competent authority with the aim of assessing the ability of the applicant to pursue that profession in the United Kingdom.

(2) The test shall take into account that he is a qualified professional in another relevant European State.

(3) The competent authority shall determine the matters to be covered by the aptitude test as follows:

- (a) the competent authority shall establish the subjects which, on the basis of a comparison between the education and training required for the practice of the profession required in the United Kingdom and that received by the applicant, have not been covered by the diploma or other evidence of formal qualifications possessed by the applicant;
- (b) the test shall cover subjects selected from those so established, the knowledge of which is essential for the pursuit of the regulated profession in the United Kingdom; and
- (c) the test may include knowledge of the relevant rules of professional conduct.

(4) The detailed application of the aptitude test and the professional status of an applicant preparing for the aptitude test shall be a matter for the competent authority.

Conditions for compensation measures

25.—(1) A competent authority may, before authorising the applicant to practise the regulated profession in the United Kingdom, require him in the circumstances specified in paragraph (3) either (but not both)—

- (a) to complete an adaptation period of up to three years with a successful assessment, or
- (b) to take and pass an aptitude test.

(2) If a competent authority intends to require the applicant to complete an adaptation period or take an aptitude test it must first examine whether the knowledge acquired by the applicant in the course of his professional experience in a relevant European State or in a third country is such that it fully or partly covers substantially different matters.

(3) A competent authority may require the applicant to complete successfully an adaptation period or pass an aptitude test if:

- (a) the duration of education and training of which he provides evidence, under paragraphs (1), (2), (3) or (4) of regulation 22, is at least one year shorter than that required by the regulated profession in the United Kingdom;
- (b) the education and training he has received covers substantially different matters than those covered by the evidence of formal qualifications required for the regulated profession in the United Kingdom; or
- (c) the regulated profession in the United Kingdom:
 - (i) comprises one or more regulated professional activities which do not exist in the profession in the applicant’s home State, and
 - (ii) that difference consists in specific training which is required by the regulated profession and which covers substantially different matters from those covered by the applicant’s attestation of competence or evidence of formal qualifications.

(4) In this regulation, “substantially different matters” means matters of which knowledge is essential for pursuing the profession and with regard to which the training received by the applicant shows important differences in terms of duration or content from the training required in the United Kingdom.

26. Where a requirement is imposed under regulation 25(1), the choice between an adaptation period and aptitude test shall be that of the applicant except:

- (a) in the regulated professions set out in the first column of the table in Part 1 of Schedule 3, whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, where the requirements set out in the second column of that table in respect of each profession shall apply, or
- (b) in cases specified in—
 - (i) regulation 3(9)(a) and (b),
 - (ii) regulation 3(9)(c) concerning only doctors and dental practitioners,
 - (iii) regulation 3(9)(d), where the applicant is a specialist nurse without training as a general nurse and seeks recognition in the United Kingdom where the relevant professional activities are pursued by nurses responsible for general care or specialised nurses holding evidence of formal qualifications as a specialist which follows the training leading to the possession of the titles listed in Annex V, point 5.2.2, or
 - (iv) regulation 3(9)(e),

where for each of the professions set out in the first column of the table in Part 2 of Schedule 3, the requirements set out in the second column of that table shall apply.

27.—(1) A competent authority shall waive the application of an aptitude test or adaptation period under regulation 25 where the applicant’s professional qualifications satisfy the criteria established in a common platform.

(2) In paragraph 1, “common platform” means a set of criteria of professional qualifications which are suitable for compensation for substantial differences which have been identified between the training requirements existing in relevant European States for a given profession and which have been adopted as a measure in accordance with Article 15(2) of the Directive.

CHAPTER 2

RECOGNITION OF PROFESSIONAL EXPERIENCE

Automatic Recognition

28. Where an applicant applies for recognition, a competent authority shall recognise, by way of a certificate in accordance with Annex VII (1)(c) of the Directive, previous pursuit of one of the activities listed in Part 3 of Schedule 1 in another relevant European State as sufficient proof of knowledge and aptitudes where the previous pursuit of that activity is in accordance with Schedule 4.

CHAPTER 3

UNITED KINGDOM CERTIFICATES OF EXPERIENCE

Issue and revocation of Certificates of Experience

29.—(1) The Secretary of State shall delegate to ECCTIS Limited⁽⁷⁾ the function of issuing a certificate, to be called a “Certificate of Experience”.

(2) A Certificate of Experience shall be issued to a person from a relevant European State who makes an application to ECCTIS Limited for the issue of such a certificate in respect of a relevant

(7) ECCTIS Limited is a private limited company registered in England and Wales with company number 2405026.

activity and satisfies ECCTIS Limited as to his relevant experience and qualifications gained in the United Kingdom as set out in Schedule 4.

(3) For the purpose of this regulation, a relevant activity is an activity which falls within the lists of activities set out in Annex IV of the Directive.

30.—(1) Where the Secretary of State is satisfied that—

- (a) a certificate was issued in reliance upon a false or fraudulent representation or declaration, either orally or in writing, or
- (b) information in reliance upon which a certificate has been issued is not correct or is not correct in a material particular and that the experience or qualifications to which the certificate attests have not been attained,

he may revoke the certificate by notice in writing sent to the person named in the certificate, subject to paragraphs (2) and (3).

(2) Before revoking the certificate the Secretary of State shall use reasonable endeavours to serve on the person named in the certificate a notice—

- (a) specifying that the Secretary of State is minded to revoke the certificate;
- (b) specifying the false or fraudulent representations or declarations or the incorrect information upon which a certificate has been issued;
- (c) specifying the effect of the matters set out in sub-paragraph (b) on the truth of the certificate; and
- (d) inviting that person within a reasonable period of not less than 28 days to submit representations in writing as to—
 - (i) the relevance of the false or fraudulent representations or declarations in relation to the certificate or the matters to which it attests; and
 - (ii) any other reason and why the Secretary of State should not revoke the certificate.

(3) The Secretary of State shall consider any representation submitted within the period specified in the notice.

CHAPTER 4

COMMON PROVISIONS ON ESTABLISHMENT

Documentation and formalities

31.—(1) When considering an application for authorisation to pursue a regulated profession, the competent authority may in accordance with the provisions of Annex VII of the Directive:

- (a) demand the documents and certificates listed in that Annex, and
- (b) invite the applicant to provide information concerning his training to the extent necessary in order to determine the existence of potential substantial differences with the training requirements in the United Kingdom, or if it is impossible for the applicant to provide such information, shall address the contact point, the competent authority or any other relevant body in the home State.

(2) The documents referred to in point 1(d), (e) and (f) of Annex VII, shall not be more than three months old by the date on which they are submitted.

(3) The competent authority shall keep confidential all such information received by it.

32.—(1) A competent authority, in cases of justified doubt, may require from a competent authority of a relevant European State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other relevant European State.

(2) A competent authority, in cases of justified doubt, shall be entitled, where evidence of formal qualifications has been issued by a competent authority of a relevant European State, and includes training received in whole or in part in an establishment legally established in a relevant European State other than that which awarded the qualification, to verify with a competent authority of the relevant European State of origin of the award—

- (a) whether the training course at the establishment which gave the training has been formally certified by the educational establishment in the relevant European State of origin of the award;
- (b) whether the evidence of formal qualifications issued is the same as that which would have been awarded if the course had been followed in the relevant European State of origin of the award; and
- (c) whether the evidence of formal qualifications confers the same professional rights in the territory of the relevant European State of origin of the award.

33. Where an applicant is required to swear a solemn oath or make a sworn statement, the form of which is such that it cannot be taken or made by applicants of another relevant European State, the competent authority shall ensure that an appropriate equivalent form of oath or declaration is available for those applicants.

Decisions of competent authorities

34.—(1) The competent authority shall acknowledge receipt of an applicant's application to establish himself in the United Kingdom pursuant to Part 3 of these Regulations within one month of receipt, and shall inform the applicant if any document is missing.

(2) The competent authority shall consider the applicant's application as soon as is reasonably practicable, and shall notify him of its decision together with the reasons upon which it is based—

- (a) within four months, for applications under Chapter 1 of this Part, or
- (b) within three months, for applications under Chapter 2 of this Part

of receipt of all the relevant documentation.

(3) For the purposes of this regulation, if a competent authority fails to take a decision and notify it to the applicant within the period mentioned in paragraph (2), it shall be deemed to have taken a decision to reject his application and to have notified it to him on the last day of that period.

Use of professional titles

35.—(1) If the use of a professional title relating to one of the activities of the profession in question is regulated in the United Kingdom, applicants who are authorised to practise a regulated profession in accordance with this Part of these Regulations shall use the professional title used in the United Kingdom which corresponds to that profession, and make use of any associated initials.

(2) Where a profession is regulated in the United Kingdom by a professional association, applicants shall not be authorised to use the professional title issued by that professional association, or its abbreviated form, unless they furnish proof that they are members of that professional association.

(3) A professional association that makes membership contingent upon certain qualifications may do so only under the conditions laid down in these Regulations in respect of applicants who possess professional qualifications.

PART 4

SUPPLEMENTARY

Appeals

36.—(1) Within four months of the notification to him of any decision of a competent authority made in relation to the applicant under Part 3 or regulation 9(2), or thereafter with the leave of the appropriate appeal body, the applicant may appeal against that decision on a matter of law or fact (or of both) to the appropriate appeal body.

(2) This regulation shall not apply in relation to any decision of a competent authority for a particular profession where the right of appeal to a body, other than a competent authority, in relation to that decision is provided for in another enactment relating to that profession.

(3) An appropriate appeal body may, for the purpose of determining any appeal under these Regulations against the decision of a competent authority—

- (a) give any authorisation to practise and impose any condition which the competent authority could give or impose in relation to that profession; or
- (b) remit the matter to the competent authority with such directions as the appeal body sees fit.

(4) In this regulation, “the appropriate appeal body” means—

- (a) where the profession concerned is one set out in the first column of an entry in Schedule 5, the court, tribunal or other person set out in the second column of that entry;
- (b) in any other case, the county court or, in Scotland, the sheriff.

Use of academic titles

37.—(1) Without prejudice to regulations 13 and 35, an applicant shall have the right to use the lawful academic title (and where appropriate the abbreviation thereof) acquired by him in his home State and in the language of that State.

(2) Where the applicant makes use of the possibility provided for in paragraph (1), the competent authority may require that the title shall be followed by the name and location of the establishment or examining board which awarded it.

(3) Where a competent authority decides that an academic title in paragraph (1) is liable to be confused with a title which, in the United Kingdom, requires supplementary training not acquired by the applicant, it may require the applicant to use the academic title of the home State in an appropriate form laid down by the competent authority.

Information from competent authorities

38.—(1) Competent authorities shall provide the Secretary of State with such information (including statistical information) as the Secretary of State may require concerning applications made to those authorities by those seeking to rely on the provisions of the Directive and the actions and decisions taken in respect of those applications.

(2) Following a request by the European Commission, a competent authority shall inform the Secretary of State of the results of any enquiries referred to in regulation 5(7)(b) with which it is dealing within two months of the date on which the competent authority receives such a request.

Revocations and savings

39. The Regulations set out in the first column of Schedule 6 are hereby revoked to the extent expressed in the third column of that Schedule.

27th September 2007

Bill Rammell
Minister of State
Department for Innovation, Universities and
Skills