

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (RECOGNITION OF PROFESSIONAL
QUALIFICATIONS) REGULATIONS 2007**

2007 No. 2781

1. This Explanatory Memorandum has been prepared by the Department for Innovation, Universities and Skills and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These Regulations contain provisions to transpose into domestic legislation European Directive 2005/36/EC on the recognition of professional qualifications for the United Kingdom. The Directive is concerned with regulated professions; a regulated profession being one where access to or practice of the profession is restricted to holders of national qualifications. The aim of the Directive is to make it easier for qualified professionals to practice their profession in European countries other than their own by simplifying the existing recognition procedures. These are:

- the seven sectoral directives: training conditions have been harmonised so that if a qualification is listed in the relevant Directive, that qualification is subject to mutual automatic recognition – general care nurse, doctor, dentist, pharmacist, midwife, veterinary surgeon and architect;
- the general system directives govern the other regulated professions. This regime does not lay down common standards of training but migrants' qualifications are considered on a case by case basis. The competent authorities can require the migrant to make up any substantial differences by undertaking a compensation measure. The onus for assessing the qualifications rests firmly with the competent authority (regulator of the profession). The professions include barrister, teacher in state schools, physiotherapist, engineer, diver, driving instructor, gas fitter.

2.2 The Directive repeals and replaces the above existing Directives, and in many cases the provisions in the current and new Directive are very similar if not identical. The Directive introduces new arrangements for migrants who want to provide services on a “temporary and occasional” basis, with the minimum of bureaucracy and red tape.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 It is not practical to produce one single implementing measure to capture the range of professions and the different provisions concerned. Therefore these Regulations transpose (a) those parts of the Directive which apply to the “general system” professions ie those professions not covered by a specific separate sectoral Directive (doctor, dentist, pharmacist, general care nurse, midwife, veterinary surgeon or architect), and (b) those parts of the Directive which apply universally across all professions. These Regulations complement and should be considered alongside the Regulations currently prepared by the Department of Health, the Department for Environment, Food and Rural Affairs, and the Department of Communities and Local Government for their respective professions. Gibraltar will prepare their own implementing legislation.

3.2 The Directive is primarily a consolidation of existing provisions so there is little flexibility in transposing the majority of the Directive. However, there is limited

discretion at national level within the new arrangements for temporary service provision and following consultation with the competent authorities we have chosen to

- require service providers to notify UK competent authorities by sending in a written declaration
- require certain documentary evidence to be provided by service providers
- allow specific competent authorities (health and social care plus gas fitters) to conduct further checks on qualifications

4. **Legislative Background**

4.1 The Directive 2005/36 was adopted by the European Parliament on 7 September 2005 with a transposition date of 20 October 2007. These Regulations are made under powers in section 2(2) of the European Communities Act 1972.

4.2 Scrutiny history:

- Proposal for a Directive of the EP and of the Council on the recognition of professional qualifications (7239/02, COM(2002)119 final) - Explanatory Memorandum (EM) signed 10.2.2002, The House of Lords sifted it to Sub-Committee F on 16.4.02 (Sift 1099); not cleared. The Sub-Committee considered it on 18.7.02 in the light of the Minister's letter of 03.7.02 and cleared it by letter to Minister (PoS Report xvi, 2001-02);
- The House of Commons deemed it politically important on 1.5.2002 and did not clear it, Report 27, 2001-02. They reconsidered it on 3.7.2002 and did not clear it, Report 35 2001-02. The Committee was updated on 10.6.2003 and 25.3.2004. The Committee wrote to the Minister on 31.3.2004. The Committee considered it on 05/04/04 and cleared it;
- Amended Proposal for a Directive of the EP and of the Council on the recognition of professional qualifications 8722/04
EM was signed 4.5.04. The House of Lords sifted it to sub Committee G (sift 1179). Cleared 12.5.04
The House of Commons deemed it politically important but cleared it 5.4.04 (Rep 19 2003-04);
- Opinion of the Commission pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the proposal for a Directive of the European Parliament and of the Council on the recognition of professional qualifications. Documents 9679/05 and 9743/05.
EM was signed on 27.6.05. The House of Lords cleared the documents 6.4.05 (sift 1220).
The House of Commons cleared them as not politically or legally important. (Report 4 2005-06)

5. **Extent**

5.1 This instrument applies to all of the United Kingdom. Ministers in the Devolved Administrations have agreed to these Regulations implementing the Directive, including those whose regulation is devolved to Scotland, Wales or Northern Ireland. However, there will be a need to make consequential amendments to various pieces of legislation, which concern the actual regulation of the profession.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy Background**

7.1 A proposal for a new Directive on the recognition of professional qualifications was introduced at the Barcelona Summit in March 2002. The Commission presented the draft legal text to Member States on 4 June 2002. Although the draft Directive aimed to consolidate the existing Directives on recognition it also introduced new elements: temporary service provision; common platforms and a single committee to replace the current raft of committees.

7.2 Consultation on the draft Directive was launched in the UK on 1 July 2002 and closed on 30 September 2002. There was general support for the proposal's intent to rationalise and simplify the directives covering the recognition of professional qualifications. Concerns were limited to new provisions which went beyond consolidation of existing legal text. A number of respondents welcomed the relaxations proposed for service providers but there was strong reaction to the relaxations in some quarters, on grounds of public safety and protection. There was general support for the introduction of common platforms, subject to clarification of the means by which they would operate. The ability of a single committee to reflect the full range of professional interests covered by a single directive was also a cause for concern.

7.3 The negotiations of the Directive primarily centred on the new elements. As expected, the provisions on temporary provision of service raised the most concerns and as a result the most contentious issues were displaced by safeguards. Further clarification on common platforms was included and reassurance of consultation with expert groups was also introduced.

7.4 Much of Directive 2005/36/EC simply consolidates existing provisions relating to establishment (operating permanently in a Member State), but rationalisation has brought about some changes to those provisions:

- these Regulations introduce a substantial change to give enhanced rights in the case of sectoral professionals who for specific reasons do not qualify for automatic recognition to have their qualifications recognised under the general procedures. The Regulations also make use of the provision in these specific cases whereby, if a compensation measure is needed to make up for a shortfall in such a migrant's training or experience, the Member State can stipulate which compensation measure is to be imposed;
- these Regulations show five levels of education and training. This is not a change of substance but simply a different representation of the consolidated information;
- as a result of the rationalisation and simplification these Regulations bring the level of "Attestation of Competence" within the general rules and procedures of recognition. Consequently the special regime no longer exists and migrants will be subject to the common provision including compensation measures;
- these Regulations include the only aspect of common platforms which requires transposition - the exemption of a compensation measure; where a platform has been agreed and the individual fulfils the criteria of that platform then automatic recognition will apply. For those cases, where the migrant does not meet the

criteria of the platform an individual assessment under the general rules will be necessary. To date, no platforms exist;

- these Regulations place a new obligation on the competent authority to acknowledge receipt of an application within one month and inform the migrant of any missing documents. Although the obligation is new this practise has always been part of the Good Practice guide;
- also these Regulations oblige the competent authorities when assessing an application to take account of professional experience wherever this has been gained;
- to enhance the recognition process these Regulations introduce the possibility for competent authorities where there is justified doubt to undertake specific checks on qualifications, this is particularly relevant in those cases where the migrant has undertaken franchised training.

All these changes have been supported by the competent authorities as welcomed enhancements to the recognition system.

7.4 Whereas the provisions in the Directive in respect of providing services on a temporary and occasional basis have brought significant changes. Currently, under specific sectoral Directives, it is possible to provide services temporarily in another Member State. Directive 2005/36/EC modifies this regime and extends it to all the professions. These Regulations implement those provisions except for the sectoral professions and certain aspects concerning the setting up of temporary registers for health and social care professions. The Directive makes it clear that where a migrant is legally established in another Member State and submits a declaration and the required documents to the host Member State, he is entitled to provide services without being registered. The Regulations:

- provide for the competent authorities to require service providers to supply a written declaration in advance, supported by evidence of the migrant's nationality, legal establishment, professional qualifications and details of insurance plus lack of criminal convictions (but only in the security sector). A standardised declaration has been prepared as part of the Guidance material;
- enable the competent authorities to make checks on the provider's status, good conduct, absence of disciplinary sanctions with the home state authority before registration and at any time after that. The Directive is specific in the documents which the service provider is required to produce before registration. This has raised anxiety amongst competent authorities, particularly in regards to CRB checks. How the provisions of the Safeguarding Vulnerable Groups Act will impact on such provisions is under consideration;
- require that all service providers are subject to the professional rules of the profession concerned but it would be unreasonable to expect all the conditions pertaining to established providers to be applicable. Disciplinary provisions are the most relevant and to make it easier to apply such provisions the Directive allows automatic or temporary registration. Discussions with competent authorities revealed that while some competent authorities wanted to set up a temporary register, others did not. The Regulations therefore leave this to the discretion of the competent authority. However, no charges can be made for such registration – this is laid down in the Directive - the service provider remains subject to the costs of being legally established in their home state;
- transpose the provisions in the Directive which allow competent authorities to check the professional qualifications of service providers working in professions

with “public health and safety implications”. In the UK, those professions considered to have a “high degree of risk” in terms of public health and safety are all health and social care professions plus gas fitters – the line agreed with EP committee during negotiation. As necessary the competent authority can require the service provider to make up any shortfalls but this has to be within the strict timescales laid down. Providers in this category will operate under UK professional titles;

- transpose the timescales within which competent authorities have to give the service provider a decision – these are set out in the Directive and are not flexible;
- do not define what is considered to be ‘temporary and occasional’ neither does the Directive. As this will vary across professions the competent authority has to make an assessment on a case by case basis of the duration, regularity, frequency and continuity of the provision – and this can only be done in retrospect which is a concern for the competent authorities. This does not prohibit the competent authority from undertaking their usual supervisory role of the professional. The Regulations also provide for a right of appeal regarding the outcome of an assessment;
- provide that where a service provider is operating under their home state title the competent authority may, in the interests of consumer protection, require certain information to be supplied to the service recipient.

7.5 The Directive explicitly obliges competent authorities to cooperate with competent authorities in other Member States and to exchange information required to make the Directive effective – this is not a new practise for UK competent authorities. An additional feature is the establishment of contact points to provide information to migrants about the profession. The Regulations oblige the competent authorities to be the contact point for their profession – all the competent authorities agree that as they already provide and maintain such information they are best placed to provide such a function. These formal requirements of cooperation have been most welcomed by UK competent authorities.

7.6 There have been individual meetings with competent authorities to discuss issues pertaining to their specific profession. Also we have held a number of stakeholder events over the last 18 months to open dialogue on issues and to find ways forward which reduce the risk of breach of EU law. For example the format of the Declaration where the feedback from competent authorities was fed into a discussion at European level and which ultimately contributed to the document circulated for use by UK competent authorities. Some other concerns were not amenable to mitigation as they are embedded in the wording of the Directive, which cannot be changed. There are other areas where the issue is of a practical nature which will be explained in the Guidance material. A stakeholder event for all competent authorities across the professions was held in March this year which, at the UK’s request, an official from the European Commission addressed the audience to discuss the temporary provisions – around 75% of competent authorities were represented.

7.7 A limited consultation was launched on 11 May 2007 and closed on 3 August 2007 with all the competent authorities concerned, government policy advisers and the National Assemblies on these Regulations. 31 responses were received: several suggesting minor amendments to the text providing greater clarity which have been incorporated into the Regulations while others sought further explanations of a practical nature which will be explained in Guidance material; some competent authorities still

have concerns about not being able to charge a registration fee or impose all conditions pertaining to the professional rules in relation to temporary service provision.

8. Impact

8.1 A Regulatory Impact Assessment has been prepared for this instrument. The new provisions will have an impact on competent authorities but there is no data on which to base an estimate of how many migrants will take advantage of the provisions. It is proposed to look again at this in two years time when there should be sufficient information on which to judge true costs. Competent authorities support such a review.

9. Contact

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Regulatory Impact Assessment for the Recognition of Professional Qualifications (European Directive 2005/36/EC)

Purpose and intended effect

Objective

Certain articles in Directive 2005/36/EC will place new obligations on the majority of UK competent authorities (regulators of the professions). These are:

Articles 5-9 allow migrants to provide cross-border services on a temporary basis while remaining established in their home Member State. The Directive is not prescriptive on how competent authorities should deal with temporary service providers, only that the Member State can require the service provider to provide a declaration in advance of the service. The competent authorities have agreed that a declaration should be required in all cases; however they cannot levy a fee to cover any administrative costs because the service provider will remain subject to the costs of being legally established in his/her own Member State. The provision to allow EU nationals to provide cross-border temporary services in another Member State forms part of the EU's internal market strategy by freeing up the supply of cross border services with minimum restrictions by the host Member State. Removing regulation and bureaucracy associated with establishment makes it easier for migrants to provide services. The EU Commission has said they will take particular interest (including enforcement proceedings) in how Member States implement this provision;

Articles 56 and 57 concern cooperation between authorities and the provision of information. The Directive also places an obligation on competent authorities to network and co-operate with their counterparts in other Member States through the exchange of information ensuring an effective operation of the system. The competent authorities have agreed they are best placed to act as contact points for their professions to provide migrants with information about the profession for example, the legislation concerned, its professional rules and codes of ethics. It will be for the authority to decide how it wishes to provide this information, for example, they may choose to add an extra page to their website or provide leaflets/ brochures.

Background

The Single Market is an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured. Free movement is a fundamental right of every European citizen. The freedom to work, to seek work, to set up business or to provide services in any other Member State without discrimination on grounds of nationality is guaranteed. In most Member States access to certain professions is controlled by laws requiring the possession of a national qualification in the area of work concerned. These are regulated professions. The purpose of the Directive is to establish uniform, transparent and flexible rules according to which host Member States recognise professional qualifications obtained elsewhere, enabling the holders of such qualifications to pursue the same profession in another Member State.

Directive 2005/36 on the recognition of professional qualifications was adopted on 7th September 2005 and comes into force on 20th October 2007. The Directive consolidates all the existing directives on professional recognition and in the main, carries forward provisions, principles and procedures which apply to the current regime. However, it now includes certain new provisions; the most significant is simpler rules for qualified professionals to provide cross-border services on a temporary basis in another Member State.

The Department for Innovation, Universities and Skills (DIUS) has responsibility for the implementation of the existing Directives 89/48/EEC, 92/51/EEC and 99/42/EC (the General System Directives). Other government departments have responsibility for the seven Sectoral Directives, the Department of Health (DH) for doctors, dentists, pharmacists, midwives and nurses responsible for general care, the Department of Communities and Local Government (DCLG) for architects and Department for Environment, Food and Rural Affairs (DEFRA) for veterinary surgeons.

Rationale for government intervention

The processing of applications for recognition of professional qualifications has been delegated through domestic legislation to the competent authorities responsible for their respective professions. Up to now there has been no financial burden on the competent authorities because they have been able to levy a fee for the processing of applications in respect of a migrant who wishes to work permanently in the UK (establishment) and this continues under the new Directive.

A provision allowing temporary service is currently operated by a number of the sectoral directives (doctors, nurses, architects and veterinary surgeons). This provision has been modified and is a new concept for the other competent authorities who have only dealt with migrants who wish to become established in the UK. The provision of services can be supplied without the need to comply with registration of a professional or social security body.

To ensure the right balance between free movement and the protection of public health and safety, competent authorities can check the professional qualifications of a service provider if the profession is judged to have a high level of “risk” of physical safety to the service recipient. The UK has limited this category to health and social care professions plus gas fitters. If there are substantial differences essential to the practice of the profession between the qualifications of the migrant and that required in the UK the competent authorities can require that the migrant undergoes a compensation measure. They will be allowed to charge the migrant as long as the charge is proportionate and reasonable.

The Directive requires all Member States to set up a contact point which can consist of a network of contacts. Competent authorities are well placed to act as the contact point for their respective professions. They will provide the migrant with information about the profession including recognition of qualifications, professional rules and codes of ethics. Authorities across the EU are also formally required to share and exchange information with each other to ensure the effectiveness of the recognition process.

Consultation

Within government

DIUS is leading on the implementation of the Directive in the UK. An Inter-departmental Working Group of DIUS, DH, DCLG and DEFRA was set up in June 2005 and has met on a regular basis to monitor progress; manage risks; avoid the potential for ineffective legislation; and manage inter-dependencies between the provisions of the Directive and the UK’s regulatory requirements. Each Department has been working closely with their competent authorities.

Representatives from the Scottish Executive, the Department for Education and Learning (NI) and the Welsh Assembly have standing invitations to the Inter-departmental working group

meetings and have attended the occasional meeting. They are kept informed through the minutes of the meetings.

Public Consultation

Separate stakeholder events have been organised to allow discussion and dialogue on issues affecting the separate professions. Joint stakeholder events for competent authorities across the whole of the regulated professions were held in March this year. Around seventy five competent authorities were represented.

On 11th May 2007 DIUS undertook a limited consultation exercise with all competent authorities, government policy advisors and the National Assemblies on the legislation. The consultation ended on 3rd August 2007. DH, DEFRA and DCLG are responsible for preparing their own legislation and consulting with their regulatory bodies.

Options

This represents the implementation of an EU Directive.

Costs and Benefits

Sectors and groups affected

Competent authorities: the bodies in the UK that regulate specific professions by reference to qualifications (eg General Teaching Council, Health Professions Council, CORGI) or award professional titles such as Chartered title (Engineering Council).

Benefits

Benefits to competent authorities for the temporary provision of services

UK nationals seeking to provide cross-border services in the regulated professions in other Member States will not be inhibited by the costs of becoming established or the timescales which can mean waiting up to four months for an assessment of qualifications and permission to access the profession. Being legally established in the UK is sufficient to provide services elsewhere in the Community. UK competent authorities will operate a system with little bureaucracy. By means of the declaration the competent authority will have sufficient information to be able to monitor the service provider. The service provider will be subject to the professional rules of the profession concerned including disciplinary provisions, thus enabling the competent authority to supervise the service provider.

Benefits to competent authorities for the risk professions

The competent authority retains the right to assess the qualifications of migrants practising the risk professions and require the service provider to make up any substantial differences in the education and training required for working in the UK. These service providers will also operate on the UK title.

Benefits to competent authorities for acting as contact points

Readily accessible information will reduce the time it takes for UK nationals to find out about regulated professions, recognition of qualifications and working in another Member State.

Networking and co-operation between contact points will reduce the time taken to make decisions on applications, quickening up the process for migrants. This will also assist in forging better working relationships between competent authorities across the Member States.

Costs

Costs to competent authorities for the temporary provision of services

The service provider is required in advance to make a declaration of intent to provide temporary services to the competent authority. This will enable professional rules and disciplinary provisions to apply to the service provider. It is for the competent authority to decide how they wish to record, register or administer the declaration. They may choose to set up a temporary register or adapt their existing systems. Whatever they decide registration must be automatic and at no cost to the service provider.

Temporary provision of services is new to most of the competent authorities in the UK and many said they could not predict costs as there is no way of knowing at this time how many EU nationals will utilise the provision. Some expect very few or none at all to operate in the UK. Some will be using their existing IT systems to log the declaration; others will adapt their existing system. The table attached provides information from competent authorities who have made an early assessment of the costs.

Costs to competent authorities for the risk professions

The “risk professions” are those professions considered to have a high degree of physical risk to the service recipient. The competent authority can check the qualifications and require the service provider to pass an aptitude test or a short adaptation period if there are substantial differences in the education and training necessary for the profession in the UK. They cannot charge for this assessment but the cost of the test/adaptation period can be passed on to the service provider.

Some competent authorities have said that temporary service provision does not fit in with their existing statutory registration system or licensing system. Adaptations or a second system would need to be developed. This is something that the competent authority needs to consider and decide the best way to meet their requirements.

Costs to competent authorities for acting as contact points

To fulfil their obligations of being a contact point for their regulated profession the competent authorities are required to provide EU nationals with information concerning the recognition of qualifications – such information is already retained by the competent authorities. They will also be required to network and co-operate with other authorities in the other Member States and exchange and share information with them.

The Directive is not prescriptive on how the competent authorities will operate as contact points. Some will provide the information through their websites, some will provide leaflets, others will consider further when they have an idea of how many will require the service.

Small Firms Impact Test

Competent authorities are not for profit organisations. In the main they are funded by their registrants. The table attached shows the spread of estimated costs implementing the Directive will have on them. Others have said they will not be able to assess costs until they know how many migrants will use the provision.

Competition Assessment

A preliminary competition assessment has shown there is no effect.

Enforcement, sanctions and monitoring

The role of Government is advisory. Any breaches by the competent authorities can be taken up by the individual concerned through the county courts or a specified appeal body for the profession.

Implementation and delivery plan

Guidance to competent authorities will be issued by DIUS in October when the Directive comes into force.

Post-implementation review

A formal review of the implementation of the Directive will be undertaken in five years time. However, it has been agreed with the competent authorities that we will undertake a review in two years time of the operation of the temporary service provisions and its costs by when they will have a better idea of the real costs.

Summary and recommendation

These provisions represent the implementation of an EU Directive.

The new provisions will impose additional administrative costs on competent authorities, especially those who wish to set up new or adapt their current systems. There may be a cost associated with operating as a contact point if web pages need to be added to existing websites or leaflets designed and published. There is no data by which an estimate can be made of how many migrants will take advantage of the provision to provide temporary services in UK. We propose to look again in two years time when the provision has become more established. We should then have sufficient information to judge the true costs.

Declaration and publication

I have read the regulatory impact assessment, and I am satisfied that the benefits justify the costs.

Signed

Bill Rammell

Minister of State

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27th September 2007

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Competent authority	Temporary registration will not fit with existing system	Temporary Registration fits with existing system	Risk professions costs for compiling/aptitude test	Changes to website	Provision of information	Other costs	How will costs be absorbed
Health & Safety Executive (Divers)	No costs	No costs	N/A	Revise list of approved qualifications. No costs	None	Additional admin staff and inspector's cost will depend on numbers	Not known until costs known
Security Industry Authority (various security professions)	Need to consider implications and adaptation of IT system. Costs not known			Amendments may be necessary. Costs not known	Redesign of publications between £5,000 - £15,000	Additional admin staff to run and maintain system	Not known until costs known
The Institution of Engineering & Technology. (Chartered Engineer - electrical)	N/A	N/A	N/A	Further page to the website minimal cost	None	None at this stage	Absorbed into general business costs
Association of Child Psychotherapists			Legal services, advice on developing aptitude test Costs not known	Website consultant will be needed. Costs not known		Additional senior staff required to receive, check declaration. Costs not known	Not known
British Psychological Society (Clinical Psychologists)			Will be additional admin costs but not known yet.		Will be additional admin costs not known yet.		Increase in registrant fees.
Farriers Registration Council	Considering separate system £1000 initial set up £100 per month maintenance		£500 - £1,000	£1,000	£1,500		Increase in registrant fee.
BERR (Insolvency practitioners)	Costs relating to adaptation of the system. £700. Costs relating to	Separate data-base for EU Practitioners £170	N/A	New information added to the website £2,000	Translation costs £50,000	Monitoring visits £1,200	Possible increase in registration fees

Competent authority	Temporary registration will not fit with existing system	Temporary Registration fits with existing system	Risk professions costs for compiling/aptitude test	Changes to website	Provision of information	Other costs	How will costs be absorbed
	verifying information £1,000						
Dept. Enterprise, Trade and Investment in Northern Ireland (Insolvency practitioners)	Similar to Insolvency Practitioners for GB (above)	As above	N/A	Add information to the website no costs	Printing costs relatively low		Government Department, but may be as above
CORGI (Gas fitters)	New system being introduced which will facilitate temp registration. No additional costs		Assessor to map qualifications against UK requirements £200. Cost for aptitude test borne by migrant £500 - £1,000	Provide information for migrants and UK nationals. £5,000	None		Increase in registrant fees.
General Osteopathic Council	Database/application changes £25,000		Designing new shortened test £10,000. Examiner training £10,000 Draft new rules £30,000	£6,000 to change the website.	Leaflets, brochures £6,000	Staff training £5,000 Administrative costs £600 per applicant	Increase in registrant fees.
General Optical Council		changes to database Out-source the work £1,500	Working group fees £7,560 Cost for aptitude test £1,750 per candidate can be borne by the migrant. Audit costs £2,500 per visit	Changes to include information and on-line register £500	New guidance packs design printing x 1000 - £2,000. Legal advice £800	Estimate of £6,000 for legal challenges Staff training £1,440 Project management group meetings £5,637	Increase in registrant fees
General Dental Council		May fit with existing system but	Some costs relating to procedures & processes relating to		Additional costs associated with being a	May be an increase in administrative costs	Increase in registrant fees

Competent authority	Temporary registration will not fit with existing system	Temporary Registration fits with existing system	Risk professions costs for compiling/aptitude test	Changes to website	Provision of information	Other costs	How will costs be absorbed
		depends on numbers. Little cost if numbers are low.	aptitude test. Cost of aptitude test borne by migrant.		contact point will increase but not known at the present time.	but not known at this point.	
Royal Pharmaceutical Society*		Structural changes required for additions to parts of the registers £10,000 Develop operating procedures £1,000	Assessor costs £500 per application. Additional staff to prepare aptitude test £70,000. Examiner support x2 £35,000	Information on registrants added to website 2xdays £800 Production of leaflets 2 days at £800	Unknown at present	Staff Training costs (inspectorate & statutory committee £8,000 Dependant on number of applicants could require additional staff £27,500	May need to be borne by existing registrants
Architects Registration Board		Separate section of the current data-base will be used. Work will be out-sourced £15,000. Management of work £5,000 Staff training £1,000. Annual maintenance costs £5,000		Initial costs of changes to website £3,000		Draft guidance £1,000 & Publishing 500x2.50 £1,250. Legal costs £500. Additional staff time dealing with enquiries & processing £30,000	Increase in retention fees for existing registrants
Care & Social Services Inspectorate Wales (Childminder)	Unclear whether need to change existing database - any change likely to cost		Will adapt existing questionnaire – minimum costs.	Website will need updating. Costs not known		Training and guidance implication for staff £4,000	Some costs may be absorbed

Competent authority	Temporary registration will not fit with existing system	Temporary Registration fits with existing system	Risk professions costs for compiling/aptitude test	Changes to website	Provision of information	Other costs	How will costs be absorbed
	£2,000. Ongoing maintenance £50 per annum						

*this competent authority deals with the sectoral profession and will also have responsibility for general system professions therefore these costs span across the different professions associated with the pharmaceutical sector

TRANSPOSITION NOTE FOR DIRECTIVE 2005/36/EC ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS, TRANSPOSED IN PART BY THE EUROPEAN COMMUNITIES (RECOGNITION OF PROFESSIONAL QUALIFICATION) REGULATIONS 2007

These Regulations implement in part Council Directive 2005/36/EC on the recognition of professional qualifications. They establish rules for the recognition of professional qualifications enabling migrants from EEA States and Switzerland to gain access to the professions in which they are qualified and to practise the profession under the same conditions as professionals in the United Kingdom where those professions are regulated.

These Regulations implement the Directive in relation to all regulated professions other than the sectoral professions (i.e. those professions which involve harmonised training with minimum training conditions being the professions of doctor, nurse, midwife, dentist, pharmacist, architect, veterinary surgeon). They also implement the Directive, in part, in relation to the sectoral professions to the extent set out in the Regulations.

The provisions of the Directive that are not implemented by these Regulations relating to the sectoral professions and to some non sectoral professions in specific sectors involving health and social care, the professions of veterinary nurse and farrier, are implemented in regulations to be prepared by other Departments namely the Departments of Health, Communities and Local Government, and for Environment, Food and Rural Affairs.

These Regulations do what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	Objectives	Implementation	Responsibility
	TITLE 1: GENERAL PROVISIONS	PART 1: GENERAL PROVISIONS	
2 (1)	Requires the provisions of the Directive to apply to all nationals of a Member State wishing to pursue a regulated profession in another Member State (“host State”) other than that in which they obtained their professional qualifications (“home State”) either on a self employed or employed basis.	Regulations 6(3), and (4) implement this provision by defining what is an “applicant” for the purpose of these Regulations. Regulation 2 defines “home” and “host State”, and regulation 3 sets out how the provisions of the Directive are applied in relation to those in the sectoral and non-sectoral professions. Obligations placed on Member States are implemented in these Regulations by imposing them, unless otherwise stated in this Note, on “competent authorities” which are defined in regulation 4. With the interpretation of “relevant European State” in regulation 2, the application of these Regulations extends to nationals of the EEA and Switzerland pursuant to Treaty obligations.	Secretary of State
3	The objective of this Article is to	The following regulations set out the	Secretary of State

	<p>set out, for the purposes of the Directive, definitions of various frequently used terms.</p> <p>Article 3(1) defines regulated profession, professional qualifications, evidence of formal qualifications, competent authority, regulated education and training, professional experience, adaptation period, aptitude test, manager of an undertaking, and evidence of formal qualifications issued by a third country.</p>	<p>definitions within Article 3(1) namely regulations 6(1) (with Schedule 1), 7(1), 7(2), 4, 6(2), 2, 23, 24, 2, 7(2) respectively.</p>	
3(2)	<p>The objective of Article 3(2) is to state that a profession practised by members of an association or organisation listed in Annex I shall be treated as a regulated profession.</p>	<p>Regulation 6(1)(a)(ii) implements this provision listing the professions in Part 2 of Schedule 1.</p>	Competent authorities
3(3)	<p>The objective of Article 3(3) is to further define “evidence of formal qualifications” to include, subject to certain conditions, qualifications obtained in a third country.</p>	<p>Regulation 7(2)(b) implements this provision.</p>	Competent authorities
	<p>TITLE II: FREE PROVISION OF SERVICES</p>	<p>PART 2: FREEDOM TO PROVIDE SERVICES ON A TEMPORARY BASIS</p>	
5(1)	<p>Requires, subject to Articles 6 and 7, Member States not to restrict for any reasons relating to professional qualifications, the free provision of services in another Member State if the service provider is legally established in a Member State or where he has pursued the profession in his home State for two years out of the last 10 in his state of establishment (where the profession is not regulated).</p>	<p>Regulations 8 and 6(3) implement this Article by setting out its provisions.</p> <p>The definition of “applicant” in regulation 6 includes a temporary service provider.</p>	Competent authorities
5(2)	<p>Requires the provision of this Title to apply where the service provider moves to a host State to pursue the profession on a temporary or occasional basis, and further requires competent authorities to assess the provision of services on a case by case basis.</p>	<p>Regulation 9 implements this Article by setting out its provisions.</p>	Competent authorities
5(3)	<p>Requires that host state’s professional rules apply to service providers where those rules are</p>	<p>Regulation 9 implements this Article by setting out its provisions.</p>	Competent authorities

	directly linked to professional qualifications		
6	Requires host States to exempt service providers established in another State from requirements which it places on professionals established in its territory relating to authorisations and registration with a public social security body. However, in order to facilitate the application of disciplinary provisions, a host State may provide either for automatic temporary registration with or pro-forma membership of a professional organisation or body, subject to certain conditions.	Regulation 10 implements this Article.	Competent authorities
7(1)	Member States may require that a service provider informs the competent authority in a host State in a written declaration to be made in advance with insurance or other details to be renewed once a year.	Regulation 11 implements Article 7(1) by setting out its provisions. The United Kingdom has exercised this discretion in the Article so that competent authorities shall require a written declaration and renewal declaration.	Competent authorities
7(2)	Before the first provision of services or if there is a material change in the situation substantiated by the documents, Member States may require that the declaration be accompanied by documents listed in this subparagraph of the Article.	Regulation 12 implements Article 7(2) by obliging competent authorities to require that a declaration be accompanied by the documents listed in regulation 12(2). The United Kingdom has exercised the discretion in the Article so that competent authorities shall require the documents listed.	Competent authorities
7(3)	Requires the service to be provided under the professional title of the State where the provider is established except for the sectoral professions where the host State title must be used.	Regulation 13 implements Article 7(3) by setting out its provisions.	Competent authorities
7(4)	For regulated professions, other than sectoral professions, with public health and safety implications, a competent authority may check the professional qualifications of the service provider prior to the provision of service. Where there are substantial	Regulations 14 to 16 impose requirements on competent authorities to check an applicant's qualifications prior to the first provision of service within the time limits provided in the Directive. The United Kingdom has exercised the discretion in the Article to	Competent authorities

	differences between the professional qualifications of the service provider and that training required in the host State to the extent that that difference is harmful to public health and safety, the host State is required to give the provider the opportunity to show he has acquired the knowledge and skills or competent lacking.	obligate competent authorities to check qualifications in profession with public health and safety implications.	
8	Imposes an obligation on competent authorities to provide administrative cooperation in the context of the provision of services and authority to request information from other competent authorities.	Regulation 18 implements this provisions by setting out the obligations and authority to request information from other competent authorities.	Competent authorities
9	Competent authorities of the host State may require the service provider to give to recipients the information listed in the Article 9(a)-(e). This provision applies only if the service provider provides the service under the professional title of the home State or under his formal qualifications.	Regulation 19 implements this discretion and scope of its application for competent authorities by setting out the provisions of the Article.	Competent authorities
	TITLE III: FREEDOM OF ESTABLISHMENT	PART 3: FREEDOM OF ESTABLISHMENT	
10	Requires Member States to apply the provisions of Chapters II and III of Title III of the Directive to applicants who for specific and exceptional reasons do not meet the requirements for automatic recognition.	Regulations 3(4), (6), (7), (8) and (9) set out the scope of application of the provisions of these Regulations to these cases.	Competent authorities
11	Requires, for the purposes of applying the requirements of Article 13 on the conditions for recognition of professional qualifications, the levels of qualification to be set out as described in Article 11(a) to (e).	Regulation 20 implements this obligations by setting out the provisions of the Article.	Competent authorities
12	Requires Member States to adopt the concept of equal treatment of qualifications. This is defined in terms of equal treatment of either evidence of formal qualifications of successful completion of training or provisions in the home state	Regulation 21 implements these obligations on competent authorities by setting out the provisions of the Article.	Competent authorities

	conferring acquired rights. The notion of equal treatment is also applied to classification under one of the levels in Article 11.		
13	Subject to conditions set out in the Article, requires competent authorities in a host State to permit access and pursuit of a regulated profession under the same conditions as apply to its nationals, where an applicant possesses attestations of competence or evidence of formal qualifications required to gain access and pursuit of that profession in another Member State.	Regulation 22 implements this Article by setting out its provisions.	Competent authorities
14(1)	Permits a host State to require the applicant to complete either an aptitude test or adaptation period, if certain conditions are satisfied.	Regulations 25 implements the obligations under this Article by setting out its provisions.	Competent authorities
14(2)	Requires that a host State offers the applicant the choice between an adaptation period or aptitude test.	Regulation 26 implements the obligation of providing an applicant with a choice between the adaptation period and the aptitude test.	Competent authorities
14(3)	Permits a host State to apply a derogation from the choice to the application of compensation measure in certain situations set out in the Article.	Regulation 26 implements this derogation by setting out its requirements for the professions referred to in Schedule 3. The United Kingdom has applied this derogation.	Competent authorities
14(4)	Sets out a definition of “substantially different matters”. Requires competent authorities to first ascertain whether the knowledge acquired by the applicant in the course of his professional experience is of a nature to cover the substantial difference.	The definition of “substantially different matters” is reproduced in regulation 25(4) and the requirement on competent authorities to ascertain knowledge is implemented in regulation 25(2).	Competent authorities
15(3)	Requires host States to waive the requirement of an adaptation period or aptitude test where a set of criteria of professional qualifications is agreed at Community level (“a common platform”).	Regulation 27 implements this provision by setting out the provision of the Article.	Competent authorities
16	Requires a host State automatically to recognise by way of a certificate,	Regulation 28 implements this provision in relation to activities in	Competent authorities

	professional experience for the activities referred to in Articles 17, 18 and 19.	the United Kingdom that are regulated professions and where recognition of professional experience is automatic on compliance with certain requirements.	
17	Requires host States to recognise previous pursuit of activities in accordance with the levels of experience set out in list I of Annex IV of the Directive.	Schedule 4 paragraph 1 implements this Article by reproducing the provisions of the Directive.	Competent authorities
18	Requires host States to recognise previous pursuit of activities in accordance with the levels of experience set out in list II of Annex IV of the Directive.	Schedule 4 paragraph 2 implements this Article by setting the provisions out directly.	Competent authorities
19	Requires host States to recognise previous pursuit of activities in accordance with the levels of experience set out in list III of Annex IV of the Directive	Schedule 4 paragraph 3 implements this Article by setting the provisions out directly	Competent authorities
21-49	The objectives of these Articles are of concern to the sectoral professions only.	These Regulations do not transpose these Articles as they are being implemented in regulations of other Departments.	
50	Gives authority to competent authorities in a host State to require documents and other evidence from applicants or competent authorities in the home State when they are dealing with an application to access and pursue a regulated profession in that host State territory.	Regulations 31, 32 and 33 implement this provision by setting out the provisions of the Article.	Competent authorities
51(1)-(2)	Imposes a procedure on competent authorities in the host State for dealing with applications for authorisation to practice a regulated profession.	Regulations 34 implement this provision by setting out the provision of the Article.	Competent authorities
51(3)	The Article requires that a decision or failure to reach a decision must be subject to an appeal under national law.	Regulation 36 implements Article 51(3) by providing for an appeal mechanism for any decision made by a competent authority in relation to Part 3 of the Regulations (as well as from “an assessment” under Part 2).	Secretary of State
52	Requires a host State to permit the use of professional titles of the host State on satisfying certain	Regulation 35 implements the provisions of this Article.	Competent authorities

	conditions.		
54	Requires an applicant to have the right to use the lawful academic title acquired in his home State.	Regulation 37 implements the provisions of this Article.	Competent authorities
	TITLES IV-VI	PART 4: SUPPLEMENTARY	
56(1)	Requires competent authorities to work in close cooperation, provide assistance to authorities in other States and ensure confidentiality of information exchanged. Competent authorities are required to exchange information re disciplinary or criminal sanctions and other serious specific circumstances.	Regulations 5(2), (3) and (4) implement these obligations by imposing these duties on competent authorities.	Competent authorities
57	Requires contact points to be designated. The objective is to require contacts points to provide citizens and contact points of other States with information on national legislation and rules of ethics. In addition contact points are required to assist citizens in realising their rights under the Directive providing, in addition, information to the Commission when requested.	Regulations 5(6), (7) and 38(2) impose these duties on competent authorities who are designated as contact points. On a request from the Commission for information as to the results of enquiries, such information is required to be supplied to the Secretary of State.	Competent authorities
60	Requires Member States to provide a twice yearly report containing a statistical summary of decisions taken and a description of main problems arising from the application of the Directive.	Regulation 38(1) imposes obligations on competent authorities to provide information to the Secretary of State on request.	Competent authorities
62	Repeals the general system Directives 89/48/EEC, 92/51/EC and 99/42/EC.	Regulation 39 repeals the sets of regulations that implemented these Directives in the United Kingdom.	Secretary of State
63	Requires transposition of the Directive by 20 th October 2007.	Regulation 1(2)-the Regulations come into force on 19 th October 2007.	Secretary of State
Annexes I-VII	The objective of these Annexes is to set out detailed lists of associations/ organisations, courses, regulated education and training, activities related to categories of professional experience, recognition on the basis of coordination of the minimum training conditions, acquired rights, documents and certificates which may be required.	The Annexes, except as set out below, have not been implemented as they are referred to directly in the Regulations. Specific provisions to implement therefore are not necessary. Regulation 2(2) states that references to the Directive are references to the Directive as amended from time to time.	Competent authorities

		<p>Regulation 5(5) sets out obligations on competent authorities to provide any information or evidence, as listed in Annex VII, in support of a holder of a qualification's request in order to support his application to practise a profession in another relevant European State.</p> <p>Regulation 29 sets out a regime in regard to the issue of Certificates of Experience in compliance with Annex VII(1)(c) of the Directive for professionals in the United Kingdom wishing to practise in another relevant European State.</p>	
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