

EXPLANATORY MEMORANDUM TO
THE ARCHITECTS (RECOGNITION OF EUROPEAN QUALIFICATIONS ETC AND
SAVING AND TRANSITIONAL PROVISION) REGULATIONS 2008

2008 No. 1331

1. This Explanatory Memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations transpose certain aspects of European Directive 2005/36/EC (referred to in this Memorandum as “the Directive”) on the recognition of professional qualifications, in respect of architects in the UK. In particular, they:

- (a) transpose those parts of the Directive concerning “automatic recognition” of qualifications (previously covered by Directive 85/384/EEC, which was specific to architects, and which is revoked by this Directive); and
- (b) make consequential provision for the “general system” of recognition of qualifications, the transposition of which in relation to all professions is contained in the European Communities (Recognition of Professional Qualifications) Regulations 2007, S.I. 2007/2781¹, made by the Department for Industry, Universities and Skills.

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

None.

4. Legislative Background

4.1 Directive 2005/36 was adopted by the European Parliament on 7 September 2005 with a transposition date of 20 October 2007, and applies to all regulated professions. A regulated profession is one where access to or practice of the profession is restricted to holders of certain qualifications. As such it covers a broad spectrum of professions. The Directive applies to EU citizens who wish to exercise their rights to free movement and practise their profession in a State other than their own. Migrants may wish to establish themselves in another State or merely wish to provide services on a temporary and occasional basis, and the Directive covers both situations.

4.2 It is not practicable to produce one single implementing measure to cover the full range of professions and the different provisions concerned. Therefore the European Communities (Recognition of Professional Qualifications) Regulations 2007, made by the Department for Industry, Universities and Skills, transpose (a) those parts of the Directive which apply to the “general system” professions ie those professions not previously covered by a specific separate “sectoral” Directive (the “sectoral” professions are doctor, dentist, pharmacist, general care nurse, midwife, veterinary surgeon and architect), and (b) those parts of the “general system” of recognition of qualifications which now apply universally across all professions. There is therefore cross-referencing

¹ The instrument can be found here: http://www.opsi.gov.uk/si/si2007/pdf/ukxi_20072781_en.pdf

between these Regulations and those made by the Department for Industry, Universities and Skills in relation to the aspects mentioned in (b).

4.3 The Department of Health made the European Qualifications (Health and Social Care Professions) Regulations 2007, S.I. 2007/3101², in respect of health and social care professions, and the Department for Environment, Food and Rural Affairs is making regulations in respect of veterinary surgeons.

4.4 The Explanatory Memorandum which the Department for Industry, Universities and Skills submitted with the European Communities (Recognition of Professional Qualifications) Regulations 2007 set out the background to the agreement of the European legislation and Parliamentary scrutiny of it.³

4.5 A Transposition Note is attached, identifying how the relevant provisions of the Directive have been transposed by these Regulations. Some additional points of explanation follow.

4.6 The Architects Act 1997 (“the Act”) regulates the use of the professional title ‘architect’ in the UK, and limits it to persons registered under the Act in the Register of Architects (unlawful use of the title is an offence). It is important to note that the provision of architectural services is not regulated. In the text that follows, references to sections in this Memorandum are to sections in the Act before it is amended by these Regulations.

4.7 Directive 85/384/EEC (the previous architect-specific directive) was transposed by way of the Act. In order to be registered, a person must meet the qualifying criteria set in section 4(1) and in the rules made by the Architects Registration Board (“the Board”) under its powers in the Act. The Board is a statutory body set up by the Act, and is responsible for making decisions about the registration of persons in the Register. Migrants who wish their names to appear in the Register are able to be registered provided they meet the qualifying criteria (there is no requirement to prove establishment in the United Kingdom).

4.8 Migrants who only wish to provide services on an occasional and temporary basis were previously able to be enrolled in the ‘list of visiting EEA architects’ (see section 12). It has been decided for the purposes of simplification that the list of visiting EEA architects should be abolished, and instead the Register should be divided into two Parts, Parts 1 and 2. This enables the wording of the Act to be simplified in relation to the application of disciplinary and administrative provisions to those providing services (regulation 18 removes section 19 (application of discipline provisions to visiting EEA architects)). The Regulations therefore make provision for the Register to be split into Parts 1 and 2. Those wishing to provide occasional and temporary services in accordance with the Directive are eligible to be registered in Part 2, while those who meet the qualifying criteria are eligible to be registered in Part 1. There is still no requirement for a migrant to prove establishment in the United Kingdom in order to be registered in Part 1, but if a migrant becomes established in the United Kingdom (this is assessed on a case by case basis in accordance with European case law), his entitlement to be registered in Part 2 ceases (see paragraph 5(5)(a) of Schedule 1A in the Schedule to the Regulations). The

² The instrument can be found here: http://www.opsi.gov.uk/si/si2007/pdf/uksi_20073101_en.pdf.

³ The Explanatory Memorandum can be found here:
http://www.opsi.gov.uk/si/si2007/em/uksiem_20072781_en.pdf.

qualifying criteria for Part 1 are more rigorous than for Part 2, and it would be undesirable for migrants to be able to exploit this loophole in order to practise in the United Kingdom on an established basis.

4.9 As the Annexes are technical in nature, it has been decided to make references to an Annex in the Directive ambulatory, so that amendments to an Annex automatically take effect without any need to amend the legislation (see regulation 22(1)(b) and the definition of “the Directive”, paragraph (b) in particular). The Annexes are likely to be amended from time to time, eg Annex V contains lists of qualifications. It is preferable for such technical amendments to take effect automatically.

4.10 The term ‘Directive-rights national’ used in the Regulations is defined in regulation 22(1)(b). The definition has been drafted to capture the range of people who may rely on rights under the Directive. Obviously, this includes nationals of Member States other than the United Kingdom. It will also include UK nationals where they have acquired rights under European Community law (for example by having exercised the right to free movement and moved to practise in another State); on returning to the United Kingdom they are entitled to rights under the Directive. The third category of persons listed, those who have an enforceable Community right, includes those such as third country nationals who are spouses of a Member State national.

4.11 The term ‘relevant European State’ has been used throughout the Regulations. In the amendment to section 25(1) of the Act made by regulation 22(1)(e), ‘relevant European State’ is defined as ‘an EEA State’. ‘EEA State’ is defined in Schedule 1 to the Interpretation Act 1978 as being a member State of the EU and any other state which at that time is a party to the EEA agreement. In addition to the EU Member States therefore, the definition encompasses Iceland, Norway and Liechtenstein. The EEA Joint Committee has agreed a Decision amending the European Economic Area Agreement so as to extend the Directive to the EEA States which are not EU Member States (although this Decision is not yet in force).

4.12 Regulation 3 inserts new section 1A into the Act, to make clear that the Board is the designated competent authority in relation to architects. The Board does not award architectural qualifications; this is the responsibility of academic institutions. However, the Board does decide which of these qualifications are suitable to give access to the profession, which is a function of the competent authority.

4.13 Regulation 6 amends section 4 so that it now concerns registration in Part 1 only. Substituted subsection (2A)(a) provides for the automatic recognition of certain specified qualifications and training. Those seeking to rely on automatic recognition must be fully qualified professionals in the State in which they obtained their qualifications or training. Therefore new subsection (2A)(a) requires that a migrant wishing to be registered in Part 1 must be either:

- (a) an architect who is lawfully established in the State in which the evidence of his qualifications or training was issued, or
- (b) at least eligible to practise there (even if he has never in fact done so).

The cross-reference in substituted subsection (2A)(c) to the European Communities (Recognition of Professional Qualifications) Regulations 2007 is to provide for the general system recognition of qualifications. Regulation 7, inserting new section 4A, contains the descriptions of the evidence of qualifications and training which must be given automatic recognition by the Board, subject to the qualifications set out there.

4.14 Regulation 8 gives effect to the Directive's requirements as regards the provision of temporary and occasional services, by inserting new sections 5A to 5E and Schedule 1A. Migrants wishing to provide services (who under the Directive must be lawfully established as architects in one of the Member States) must be allowed to do so after providing the information required by the Directive, in the form of a declaration accompanied by the documents specified. Member States may make provision for automatic temporary membership of a professional organisation or body, but this must not complicate the provision of services or involve any additional costs. Therefore the Regulations make provision for migrants to be entitled to be registered in Part 2 of the register once they have provided the necessary documentation (see the Schedule to the Regulations, inserting Schedule 1A, paragraphs 1 and 3(1)). Because the entitlement to provide services arises as soon as the migrant provides the necessary documents, even if the Registrar has not managed to process the application and enter the person's name in Part 2 of the Register, paragraph 6 provides that a migrant who has complied with the requirements of the Directive is to be deemed to be registered at that point. The Registrar has a duty to notify a person who has supplied documents but who the Registrar considers is not entitled to be registered in Part 2 of the Register.

4.15 Regulation 10 inserts new section 6A, which makes clear that the Board has the power to issue a certificate of architectural education. When a Member State national with UK qualifications wants to practise in another Member State, the Board may be asked to certify the person's training and qualifications. The minimum training conditions in Article 46 relate to the academic stage of training, in the UK this is a university degree plus a masters degree. However, a person is not entitled to be registered unless they also have a post-graduate qualification known as 'Part 3' and have two years of practical experience.

4.16 The offence under section 7 for obtaining registration by false representation has been extended by the amendments in regulation 11 so that it now also covers obtaining recognition by false representation.

4.17 Sections 22 and 22A concerning appeals have been reduced to one section. The right of appeal has been extended so that migrants wishing to provide services who are refused registration are also able to appeal, not just persons wishing to be registered in Part 1 of the register. Also, the statutory rights of appeal of persons who are not relying on Directive rights have been equalised with those of persons relying on Directive rights, so that all persons aggrieved by refusal of an application for registration in Part 1, or by the failure of the Registrar to comply with section 6(4) (service of notice of decision in relation to an application for registration in Part 1 of the Register) now have the same right of appeal. The right of appeal in relation to registration in Part 1 is to the High Court or, in Scotland, to the Court of Session. The right of appeal in relation to registration in Part 2 is to the county court or, in Scotland, to the sheriff, as this is likely to be cheaper, and was considered to be appropriate for appeals in relation to the provision of temporary services rather than registration in Part 1. Those relying on Directive rights for registration are given an extra month for bringing an appeal. This is because some extra time has been allowed for a reference of the dispute to SOLVIT. SOLVIT is an alternative dispute resolution mechanism, co-ordinated by the European Commission, but operated by Member States. Its aim is to resolve disputes over application of the internal market rules without the need for court action.

4.18 Regulation 21 inserts section 22B on administrative co-operation, which gives effect to Articles 50(2) and (3), and 56(1) and (2). Under the relevant parts of Article 50, the host Member State may require information from the competent authorities of the host Member State to verify information provided by the applicant for registration. Under the relevant parts of Article 56, the competent authorities of the host and home Member States must work in close collaboration and provide each other with mutual assistance to facilitate application of the Directive. They must exchange information in the circumstances set out in the Article. Regulation 21 also inserts section 22C on confidentiality, which gives effect to the requirement in Article 50(1) for Member States, bodies and other legal persons to guarantee the confidentiality of the information which they receive, and in Article 56 for the competent authorities of the host Member State and the home Member State to ensure the confidentiality of the information which they exchange. To ensure confidentiality, a prohibition on disclosure has been imposed on the Board, the Registrar and persons acting on their behalf. This is subject to exceptions in respect of disclosure to the Secretary of State, or disclosure which is necessary in order to facilitate the carrying-out of functions of the Board, or of functions of the Registrar, under the Act or any other enactment. Disclosure must be allowed to the Secretary of State, because if there is a problem with regard to the application of the Directive it is for the Member State to resolve the issue. The Secretary of State needs to be able to work with the Board and SOLVIT and/or the Commission to investigate and resolve any problems, and may need to see relevant documentation and information in respect of individuals for this purpose.

4.19 Savings have been made in regulation 26 in respect of the implementation of the Swiss Agreement so far as it relates to the rights of persons under Directive 85/384/EEC. The Swiss Agreement is the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999 and which came into force on 1st June 2002. The Swiss Agreement has not been amended so as to extend to the Directive. Regulation 26 therefore preserves the effect of the Architects Act 1997 before it was amended by these Regulations in most respects in relation to Swiss nationals (unless they are entitled to be treated as if they were an EEA national, for example they are a spouse of an EEA national), and to certain other EEA nationals who are qualified to practise as architects in Switzerland.

4.20 The procedures under the Architects Act 1997 for entitlement to registration in the Register and enrolment on the list of visiting EEA architects for the persons reliant on rights under the Swiss Agreement are preserved, although the entitlement will now be to registration in Parts 1 or 2 of the Register respectively.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom. Regulation of the profession of architects is devolved in Northern Ireland, and the relevant Minister in Northern Ireland has agreed that these Regulations should extend to Northern Ireland.

6. European Convention on Human Rights

Iain Wright MP, Parliamentary Under Secretary of State in the Department for Communities and Local Government, has made the following statement regarding

Human Rights:

In my view the provisions of the Architects (Recognition of European Qualifications etc and Saving and Transitional Provision) Regulations 2008 are compatible with the Convention rights.

7. Policy background

7.1 The policy background to Directive 2005/36/EC is contained in the Explanatory Memorandum which the Department for Industry, Universities and Skills submitted with the European Communities (Recognition of Professional Qualifications) Regulations 2007.

7.2 As stated above, the Act regulates the use of the title ‘architect’ in the UK. The amendments made by the Regulations do not affect the continuing policy objectives of the Act, but are necessary to ensure compliance with European legal obligations.

7.3 Where persons from another Member State enter the UK with the intention of practising as an architect, if they are eligible to do so, there can be no barrier to their doing so unless permitted by the Directive. This is a process which has occurred for many years – architecture is an international discipline and movement between nations, particularly within the European community, is common. Whilst the numbers involved in migration have been increasing over the years, those wishing to provide temporary services, who formerly were enrolled on the list of visiting architects and who in future will be registered in Part 2 of the Register – have always been in single figures in any one year, and no-one was on the list of visiting architects in the years 2006 or 2007.

7.4 These Regulations are primarily of interest to the professional community (approximately 32,000 registered architects in 2007), the Architects Registration Board, and, of course, migrants wishing to rely on the Directive. The level of general public interest is considered to be low, especially as the Directive and transposing Regulations are complex. Changes to the Act will not have a significant impact on most people’s daily lives.

7.5 However, there are issues of public interest in terms of consumer protection which relate directly to ensuring that those who use the title ‘architect’ are competent to do so. As a result, consumer groups working in the interest of the general public were consulted on the proposed changes (see below).

7.6 The changes to the Act are important and are necessary to ensure that the UK complies with its European legal obligations and that transposition of the Directive is accurate and complete.

Consultation

7.7 The Directive, and transposition of it, is complex. Decisions on transposition, and discussions with stakeholders as to options took a significant amount of time. When it became clear that the transposition deadline of 20th October 2007 was unlikely to be met, ministers agreed that a limited 6 week consultation would be acceptable. In addition to the time constraints, it was considered that key stakeholders were easily identifiable and relatively small in number.

7.8 As a result, in August 2007 a limited consultation was issued to the Board, Association of Consultant Architects (ACA), Commission on Architecture and the Built Environment (CABE), Consumers Association, General Consumer Council for Northern Ireland, National Consumer Council, Royal Institute of British Architects (RIBA), Scottish Consumer Council, Scottish Executive, Northern Ireland Assembly, Standing Conference of Heads of Schools of Architecture (SCHOSA), Welsh Assembly Government, Welsh Consumer Council and the Worshipful Company of Chartered Architects. The consultation document was also made available to the general public through the Department for Communities and Local Government website.

7.9 Four responses were received from this selected list of 14 organisations, and two responses were received from members of the public. Responses varied, and several contained very detailed drafting suggestions, but several of the responses expressed concern about the approach to competence to practise (including the National Consumer Council) and to who should be entitled to automatic recognition (see further below). The responses were primarily from the professional organisations (the Board, RIBA, ACA,) two individual members of the public with legal backgrounds affiliated with consulted organisations, and the National Consumer Council.

7.10 The results of the consultation were very helpful in shaping the drafting of the Regulations, and account was taken of comments where this was possible. In some cases radical changes of approach were adopted by the Department as a result of consultation responses. For example, the Department initially took the view that section 9 of the Act could not be applied to EU migrants, because of the reference to ‘recent practical experience’, a position which several consultees were concerned about. The Directive no longer allows Member States to impose their own practical experience requirements in relation to someone who is entitled to automatic recognition of their qualifications. However, it transpired that the Board’s rules as to ‘practical experience’ encompass a range of activities, including professional experience, academic study and teaching of architecture and continuing professional development training. Activities undertaken in other Member States must be recognised as equivalent to comparable activities undertaken in the UK of course.

7.11 Another significant change that the Department made as a result of responses was to limit registration in Part 1 of the Register to those who are eligible to practise as architects in their home Member State (explained further in paragraph 4.13 above). This interpretation of the Directive is not immediately obvious from its text, and required detailed consideration of the position under EU law. The Department is confident that the Commission also shares this interpretation.

7.12 It was not possible to address all of the concerns expressed in the responses to consultation. Quite a few comments from consultees related to the desirability or otherwise of the legal obligations imposed by the Directive itself, rather than the transposition of those obligations, and obviously could not be accepted. Other comments which could not be accepted were detailed drafting suggestions, where these did not fit with the Department’s drafting style, or where the consultees’ interpretation of the Directive obligations was considered by the Department to be incorrect.

Guidance

7.13 It is important that both incoming and outward going migrants have access to clear guidance as to the workings of both the Directive and how this is given effect by

way of amendments to the Act. Guidance has already been issued by the Department for Innovation, Universities and Skills (DIUS) to all competent authorities about the Directive generally. The Board, as the UK competent authority, will provide guidance for both incoming and outward going migrants, as to their rights under the Directive, and what is required of them to ensure that suitable recognition of their qualifications and training is achieved. This guidance will be made available on their website:

www.arb.org.uk.

7.14 The Board will alert those on the register to the amendments to the Act via the website, and for those who subscribe to electronic alerts , by email.

7.15 Also, a single point of contact will be provided by the Department for Business, Enterprise and Regulatory Reform, which will deal with applicants under the general systems (see paragraph 2(b) above), but will also direct applicants to the competent authorities for the architectural and other professions. This single point of contact is also a requirement of the Directive.

7.16 There is no intention to consolidate the Act. Consolidated text will be available to the public free of charge on www.statutelaw.gov.uk in due course. The Board also anticipates making a consolidated text available on its website.

8. Impact

Impact Assessment has not been carried out as there are no identifiable adverse impacts as a result of these Regulations. The Board has to apply the previous Directive 85/384/EEC, and so there are no additional costs to their having to apply this Directive. Any positive impacts are anticipated to be negligible. The Department will review the situation in two years time.

9. Contact

Richard Harral at the Department for Communities and Local Government, tel: 020 7944 3575 or e-mail: richard.harral@communities.gsi.gov.uk can answer any queries regarding the instrument.

Transposition Note

Provisions which are not applicable to architects are not listed in the Transposition Note.

Article of Directive	Objective and commentary	Implementation in the Regulations
Title 1 – General provisions		
2(2)	The second sentence of article 2(2) provides that, in the case of the sectoral professions, a competent authority may recognise a migrant's qualification which was not obtained in a relevant European State only if that qualification is evidence that the minimum training conditions set out in the Directive are satisfied.	Not given effect in these Regulations. The Board prescribes the qualifications which give access to the profession in the United Kingdom (see section 4(1)(a)). The Board has adopted the minimum training conditions as the basis for their prescription of qualifications, so that all prescribed qualifications in the United Kingdom meet the minimum training conditions. Only a person with a standard of competence which, in the opinion of the Board, is equivalent to that in section 4(1)(a) is entitled to be registered (section 4(1)(b)).
Title II – Free provision of services		
5(1)(a) and (2)	Article 5(1)(a) and (2) sets out the basic principle of Title II of the Directive (free provision of services). Title II applies where a migrant, who is established in a particular profession in a relevant European State, moves to another relevant European State to provide services in that profession on a temporary and occasional basis.	Regulation 8, inserting new section 5A, which provides for Schedule 1A to be inserted (contained in the Schedule to the Regulations). Paragraphs 1 and 2 of Schedule 1A give effect to articles 5(1)(a) and (2).
5(3)	Where a migrant moves to provide services, he is subject to certain rules of the host State in respect of the profession concerned, such as disciplinary provisions.	This is achieved by those who wish to provide services on a temporary basis being registered in Part 2 of the Register. All registered persons are subject to the same rules as to discipline, professional conduct etc. See regulation 5 (setting up two Parts to the Register), paragraphs 3 and 4(2) and (4) of Schedule 1A (giving entitlement to registration in Part 2).
6(a)	Migrant service providers who are established in another	A person must not practise or carry on business using the title of

	<p>Member State are exempt from the usual registration requirements, but automatic temporary registration or pro forma membership of a professional organisation or body is allowable (at no additional cost and if no delay is caused to service provision).</p>	<p>‘architect’ unless he is a registered person under the Act (section 20(1)). Persons need not be a member of a professional organisation or body as such, but must be registered in the Register of Architects, and effect has been given to this requirement by giving an automatic right to registration in Part 2 of the Register.</p> <p>Paragraphs 3 and 4(2) and (4) of Schedule 1A give an entitlement to migrant service providers to registration in Part 2.</p> <p>Regulation 9(a) amends section 6(1) so that a fee can be charged in connection for a application to be registered in Part 1 of the Register only.</p>
7(1) and (2)	<p>Member States may require that migrant service providers must, for the first provision of services, complete a declaration and provide certain documents. There is also provision for a renewal of the declaration for provision of services in a future year.</p>	<p>Paragraph 3(1), (3) and (4) of Schedule 1A provides for the declaration and other required documents to be supplied by migrant service providers seeking to provide services for the first time. Paragraph 3(5) gives effect to the last sentence of article 7(1) in respect of first registration.</p> <p>Paragraph 4(1) and (2) applies to a migrant service provider who provides the required renewal documents (as set out in paragraph 4(6)-(8)) while his registration is still continuing; paragraph 4(3) and (4) applies where the migrant service provider’s previous entitlement to registration has ceased. Paragraph 4(9) gives effect to the last sentence of article 7(1).</p>
7(3)	<p>The migrant service provider must provide the service under the professional title of his home State (and not the United Kingdom title of ‘architect’), except where the person would</p>	<p>Regulation 8, inserting new section 5B.</p> <p>Section 5B specifies what titles are to be used by persons registered in Part 2. As the title</p>

	be entitled to automatic recognition of their qualifications under Title III Chapter III.	'architect' may be the title of the profession in another relevant European State (for example, in Ireland), or confusingly similar to that title, provision has been made to indicate the name of the relevant European State in brackets after the title.
8(1) and (2)	Article 8(1) requires competent authorities of relevant European States to cooperate in relation to the status of professionals providing services across borders. Article 8(2) requires competent authorities to ensure that processes exist to pursue complaints made against migrant service providers	Regulation 8, inserting new section 5D.
9	Member States may require the further information specified in article 9 to be given to the recipients of services by migrant service providers, where the service is provided under the migrant's home State title (and not the title of 'architect').	Regulation 8, inserting new section 5C (see also section 5B(3) about the use of home State title).
Title III – Freedom of Establishment		
Chapter I – General system for the recognition of evidence of training		
10	This explains the application of Chapter I of Title III of the Directive. Title III applies where the migrant wishes to establish himself in the United Kingdom. Chapter I concerns the general system, which applies in certain cases, as specified in article 10, to architects.	A person need not be established in the United Kingdom to be registered in Part 1 of the Register of Architects under the Act. Regulation 6 amends section 4 which concerns registration. Substituted subsection (2A)(c) gives effect to article 10, and contains a cross-reference to the relevant provisions of the European Communities (Recognition of Professional Qualifications) Regulations 2007, S.I. 2007/2781. Those Regulations give effect to article 10 for all professions.
14	Article 14 provides for 'compensation measures' (which in the case of architects is an aptitude test) for those architects availing themselves of the general system route to	Regulation 6, substituting section 4(2A)(c)(iii), contains the cross-reference to the relevant provisions of the European Communities (Recognition of Professional Qualifications)

	recognition of their qualifications.	Regulations 2007, S.I. 2007/2781.
Chapter III – Recognition on the basis of co-ordination of minimum training conditions		
21(1), (5) and Annex V point 5.7.1 (other aspects of article 21 not relevant to architects, apart from paragraph (7), which does not require transposition)	These provisions set out the principle of automatic recognition of the qualifications listed in Annex V at point 5.7.1 in relation to architects.	Regulation 7, inserting new section 4A(1)(a). Regulation 6, inserting subsection (2A) into section 4.
22(a)	Relevant European States may authorise part-time training as long as its overall duration and quality is equivalent to full-time training.	Regulation 7, inserted new section 4A(1)(a) provides for part-time training which complies with article 22(a) to be recognised on the same basis as full-time training.
22(b)	Relevant European States shall ensure that persons who have completed their studies are able to participate in continuing professional education and training.	The Commission has confirmed that Member States are not required to set up programmes of continuing education and training. Continuing education and training for architects is provided by academic institutions or professional bodies. No specific implementation required.
23(3) to (5)	Article 23 describes certain situations in which migrants may qualify for automatic recognition, despite not complying with all the requirements needed for automatic recognition under article 21(1), for those qualified as architects in the past before EU harmonisation (“acquired rights”). Article 23(3) to (5) provides that member states shall recognise qualifications issued by the former Czechoslovakia, former Soviet Union and former Yugoslavia, if accompanied by	Regulation 6, substituting section 4(2A)(a). For the relevant description of evidence, see regulation 7, inserting section 4A(1)(b). The requirement in new section 4(2A)(a) for the migrant to be either lawfully established as an architect in his home State or eligible to practise as an architect in his home State is because the Directive only requires recognition of the qualifications of qualified architects, not the qualifications of someone who is

	the necessary attestation and certificate (persons wishing to rely on the certificate must have been practising lawfully as an architect for at least three years during the past five years within their home State).	not in fact a fully qualified professional.
46	Article 46 sets out the minimum training conditions for qualifications for architects which may benefit from the automatic recognition of qualifications.	Not given effect in these Regulations. The Architects Registration Board prescribes the qualifications which give access to the profession in the United Kingdom (see section 4(1)(a)). The Board has adopted the minimum training conditions as the basis for their prescription of qualifications, so that all prescribed qualifications in the United Kingdom meet the minimum training conditions.
47(1)	This provides for evidence of training by the 'Fachhochschulen' in Germany to be recognised as satisfying article 21 (and hence benefiting from automatic recognition), provided that the evidence is accompanied by the requisite certificate (confirming 4 years' post-training experience)	Regulation 6, substituting section 4(2A)(a). For the relevant description of evidence, see regulation 7, inserting new section 4A(1)(c).
47(2)	This provides for evidence of training as part of social betterment schemes or part-time university studies to be recognised as satisfying article 21 (and hence benefiting from automatic recognition), provided that the evidence is accompanied by evidence of passing the requisite examination and 7 years' supervised work in architecture.	Regulation 6, substituting section 4(2A)(a). For the relevant description of evidence, see regulation 7, inserting new section 4A(1)(d).
48	This provides for the recognition as architects of those who are awarded the title of architect in their home State because they are especially distinguished by the quality of their work in the field of architecture	Regulation 6, substituting section 4(2A)(b).
49(1) and Annex VI	Article 49(1) provides for the evidence of qualifications as an	Regulation 6, substituting section 4(2A)(a). For the relevant

	architect listed in Annex VI to be recognised, even though these qualifications do not meet the minimum training conditions in article 46. This is to provide for ‘acquired rights’ for those qualified as architects in the past before EU harmonisation.	description of evidence, see regulation 7, inserting new section 4A(1)(e).
49(2)	Article 49(2) provides for the recognition of the evidence of qualifications specified, i.e. certificates issued to nationals by their home State in accordance with this article (including confirmation that such persons have been practising lawfully as an architect for at least three years during the five years preceding the award of the certificate within their home State). This is also provision for acquired rights.	Regulation 6, substituting section 4(2A)(a). For the relevant description of evidence, see regulation 7, inserting new section 4A(1)(f).
Chapter IV – Common provisions on establishment		
50(1) and Annex VII	Article 50(1) provides that member States may demand the documents listed in Annex VII, in relation to an application by a migrant for establishment (whether under the automatic recognition procedure or the general system).	Regulation 7, substituting section 4A(2)(a). Regulation 21, inserting new section 22C (confidentiality).
50(2)	This provides that member States may, in the event of justified doubts, make further enquiries concerning a migrant’s qualifications or satisfaction of the minimum training conditions applicable to his profession.	Regulation 7, substituting section 4A(2)(b). Regulation 21, inserting new section 22B (administrative co-operation).
50(3)	This provides that relevant European States may, in the case of justified doubts, make further enquiries concerning a migrant’s training or qualifications in a situation where part of the training has been carried out in a different relevant European State.	Regulation 7, substituting section 4A(2)(c). Regulation 21, inserting new section 22B (administrative co-operation).
51(1)	Competent authorities must acknowledge receipt of applications for establishment within one month and inform	Regulation 9, inserting new subsection (3B) into section 6.

	applicants of missing documents.	
51(2)	This provision specifies time-limits within which a competent authority must deal with an application. Reasons should be given for the authority's decision.	Regulation 9, inserting new subsection (3C) into section 6, substituting subsection (4A), and amending subsection (4B). A person who 'relies on section 4(2A)' when making an application for registration identifies a person as having made their application in reliance on the rights under this Directive.
51(3)	This provision requires that a competent authority's decision on an application for establishment (or failure to reach a decision) must be subject to a right of appeal.	Regulation 20, substituting section 22. Appeal rights have been given in respect of applications for registration in both Parts 1 and 2 of the Register.
52	Article 52(1) requires migrants who are entitled to automatic recognition of their qualifications to be able to use the professional title applicable in the UK. Article 52(2) does not apply to architects.	Regulation 29, amending section 20(1). Those who are registered in Part 1 of the Register may practise or carry on business using the title of 'architect'.
Title IV – Detailed rules for pursuing the profession		
53	Article 53 requires migrants whose qualifications have been recognised to have a sufficient knowledge of the language of the State in which they are practising their profession.	No specific implementation required. Member states are not permitted to test language competence prior to recognition of the right to practise.
54	Article 54 allows migrants to use the academic title conferred on them in their home State.	UK legislation does not prohibit this. No specific implementation required.
Title V – Administrative co-operation and responsibility for implementation		
56	This provision requires competent authorities to cooperate with each other and ensure the confidentiality of information exchanged.	Regulation 3, inserting section 1A, designating the Architects Registration Board as the competent authority in respect of architects for the United Kingdom (with the exception of the functions of awarding degrees, diplomas or other qualifications in architecture). Universities, colleges and other academic institutions will

		<p>continue to award academic qualifications, but it is not considered necessary to make them competent authorities in respect of this function. The Board is given the function of awarding a 'certificate of architectural education' by regulation 10, inserting new section 6A, confirming that a person's training meets the minimum training conditions in Article 46 of the Directive.</p> <p>Regulation 21, inserting new sections 22B (administrative co-operation) and 22C (confidentiality).</p>
56(4), 57 and 60	<p>These are overarching provisions relating to a national coordinator, contact points and reports, which have been implemented in the European Communities (Recognition of Professional Qualifications) Regulations 2007, S.I. 2007/2781.</p>	<p>Not implemented in these Regulations.</p>