

2023 No. 1081 (C. 67)

PROFESSIONAL QUALIFICATIONS

**The Professional Qualifications Act 2022 (Commencement
No. 3 and Savings and Transitional Provisions) Regulations
2023**

Made - - - -

11th October 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by section 21(4) and (6) of the Professional Qualifications Act 2022(a).

Citation and extent

1.—(1) These Regulations may be cited as the Professional Qualifications Act 2022 (Commencement No. 3 and Savings and Transitional Provisions) Regulations 2023.

(2) These Regulations extend to the United Kingdom.

Interpretation

2. In these Regulations—

“the 2015 Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015(b);

“the Act” means the Professional Qualifications Act 2022; and

“the relevant date” means 1st December 2023.

Commencement

3.—(1) Section 5(1) of the Act, which revokes the 2015 Regulations, comes into force on 1st December 2023.

(2) The revocation of the 2015 Regulations is subject to the savings and transitional provisions set out in the Schedule.

Kevin Hollinrake

Parliamentary Under Secretary of State (Minister for Enterprise, Markets and Small Business)
11th October 2023

Department for Business and Trade

(a) 2022 c. 20.

(b) S.I. 2015/2059. These Regulations have been amended by S.I. 2008/1950, 2016/1094, 2018/365, 2019/312 and 2020/1038.

SCHEDULE

Regulation 3(2)

Savings and transitional provisions

PART 1

General

1. The revocation of the 2015 Regulations does not affect the validity of any action or decision taken or right accrued under those Regulations on or after 31 December 2020 and before the relevant date^(a).

2.—(1) Where sub-paragraph (2) applies, the provisions of the 2015 Regulations continue to apply on and after the relevant date as they had effect immediately before that date.

(2) This paragraph applies where on or after 31 December 2020 and before the relevant date—

(a) an applicant has made an application to a competent authority relying on the 2015 Regulations; and

(b) the application has not been finally determined before the relevant date.

(3) An application is finally determined when—

(a) the competent authority has notified, or is deemed to have notified, the applicant of its decision; and

(b) either—

(i) the period for appeal against that decision under regulation 68 of the 2015 Regulations has expired without an appeal being made; or

(ii) an appeal made under that regulation has been determined.

3. Regulations 38 and 39 of the 2015 Regulations continue to have effect for the purposes of regulation 31(5)(k) of the Provision of Services Regulations 2009^(b).

PART 2

Savings relating to the Common Travel Area

4.—(1) The following provisions of the 2015 Regulations, as they were in force immediately before the relevant date, continue to apply in respect of an application made on or after that date by a professional with qualifications obtained in the Republic of Ireland to pursue a profession listed in Part 1 of Schedule 1 to the 2015 Regulations (as saved by paragraph (j))—

(a) regulation 2 (interpretation)—

(i) in paragraph (1) the following definitions so far as necessary for the interpretation of the other provisions saved by this Part—

“applicant”,

“competent authority”, with the substitution of “the Republic of Ireland” for “a relevant European State”,

“evidence of formal qualifications”,

“holder”, with the substitution of “the Republic of Ireland” for the words from “a relevant European State” to the end,

“practice”,

(a) For earlier transitional and savings provisions applying before 31 December 2020 see Part 3 of Schedule 1 to S.I. 2019/312.

(b) S.I. 2009/2999 as amended by S.I. 2018/1329.

- “profession”,
- “professional qualifications”,
- “regulated education and training”,
- “same profession”, with the substitution of “the Republic of Ireland” for “their home state”,
- and
- (ii) paragraph (4);
 - (b) regulation 4 (competent authorities)—
 - (i) paragraph (1), with the substitution of “Part 1” for “Parts 1 and 2”; and
 - (ii) paragraph (5), with the substitution of “the Republic of Ireland” for “a relevant European State”;
 - (c) regulation 8 (regulated profession, etc)—
 - (i) paragraph (1)(a)(i);
 - (ii) paragraph (2), with the substitution of “the Republic of Ireland” for “a relevant European State” (in both places it appears) and “that relevant European State”; and
 - (iii) paragraph (4), with the omission of “and 4” and with the substitution of “the Republic of Ireland” for “a relevant European State” in sub-paragraph (c);
 - (d) regulation 9 (professional qualifications and evidence of formal qualifications), with the substitution in paragraph (2)(a) of “the Republic of Ireland” for “a relevant European State” and for “one or more relevant European States”;
 - (e) regulation 29 (conditions for recognition)—
 - (i) with the substitution of “the Republic of Ireland” for “a relevant European State” and for “that relevant European State” in paragraph (1) and (2)(a);
 - (ii) with the substitution of “Republic of Ireland” for “applicant’s home state” in paragraph (1A)(b)(i); and
 - (iii) with the omission of paragraph (1A)(c);
 - (f) regulation 38 (documentation and formalities), with the omission in paragraph (1)(a) of the words “level and”;
 - (g) regulation 39 (request for confirmation of qualifications, etc)—
 - (i) with the substitution of “the Republic of Ireland” for “a relevant European State” and for “that relevant European State” in paragraph (1);
 - (ii) with the omission of paragraph (2);
 - (iii) with the substitution of “the Republic of Ireland” for “a relevant European State” in paragraph (3); and
 - (iv) with the substitution in paragraph (4) of “Republic of Ireland” for “another relevant European State” and the omission of the words “or the verification sought” and the words from “before the expiry” to “regulation 42(2),”;
 - (h) regulation 43(1);
 - (i) regulation 66 with the substitution of “the Republic of Ireland” for “relevant European States” in paragraph (1) and “a relevant European State” in paragraph (2);
 - (j) Schedule 1, in Part 1 the entries for the following professions—
 - (i) Approved Driving Instructor (Great Britain),
 - (ii) Certified Instructor (Motor Cycles) (Great Britain),
 - (iii) Approved Driving Instructor (Northern Ireland),
 - (iv) Approved Motorcycle Instructor (Northern Ireland),

- (v) Road/street Works Operatives^(a) with the omission of “street”,
 - (vi) Road/street Works Supervisors with the omission of “street”.
- (2) These additional savings apply in respect of the professions of Approved Driving Instructor (Northern Ireland), and Approved Motorcycle Instructor (Northern Ireland)—
- (a) regulation 42;
 - (b) regulation 68—
 - (i) with the substitution in paragraph (1) of “regulation” for “either regulation 6(1) or”,
 - (ii) with the omission of paragraph (3),
 - (iii) with the omission in paragraph (4) of the words “6(1) or”, and
 - (iv) with the omission of paragraph (5) and paragraph 6(b);
 - (c) Schedule 5 (Appeal Bodies) the entries relating to—
 - (i) Approved Driving Instructor (Northern Ireland); and
 - (ii) Approved Motorcycle Instructor (Northern Ireland).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These are the third commencement Regulations made under the Professional Qualifications Act 2022 (“the Act”). They bring into force on 1st December 2023 section 5(1) of the Act which revokes the European Union (Recognition of Professional Qualifications) Regulations 2015 (“the 2015 Regulations”).

The 2015 Regulations, as amended by the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019 (2019/312) (“the 2019 Regulations”) set out an interim system for the recognition of professional qualifications from the EEA and Switzerland.

These Regulations commence the revocation of the 2015 Regulations. Part 1 of the Schedule contains transitional and savings provisions in respect of recognition obtained and applications made, but not determined, on and after 31 December 2020 and before the date when the 2015 Regulations are revoked. Transitional and savings provisions in respect of the period before 31 December 2020 are contained in Part 3 of Schedule 1 to the 2019 Regulations. Part 2 of the Schedule to these Regulations makes specific savings for the application of the 2015 Regulations to certain qualifications obtained in the Republic of Ireland in order to support the Common Travel Area between the United Kingdom and Ireland.

(a) Part 1 of Schedule 1 to the 2015 Regulations listed the professions of “Road/Street Works Operatives” and “Road/Street Works Supervisors”. In each case “Road” referred to the profession as regulated in Scotland and “Street” referred to the profession as regulated in England and Wales. The savings in respect of “Road Works Operatives” and “Road Works Supervisors” are therefore for those professions as regulated in Scotland. In respect of each of those profession all three of the bodies listed in Part 1 of Schedule 1 are competent authorities.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Professional Qualifications Act 2022 have been brought into force by commencement Regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 9	28th October 2022	S.I. 2022/936
Section 10 (remainder)	28th October 2022	S.I. 2022/936
Section 11(4) and (5)	31st December 2022	S.I. 2022/1384

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