
STATUTORY INSTRUMENTS

2007 No. 2781

The European Communities (Recognition of Professional Qualifications) Regulations 2007

PART 2

FREEDOM TO PROVIDE SERVICES ON A TEMPORARY BASIS

Right to practise in the United Kingdom

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

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

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

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

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

Exemptions

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

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

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

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

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

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

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

(2) The declaration shall—

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

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

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

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

(2) The documents that shall be required are:

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

Title under which professional services are provided

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

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

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

Checks for professions having public health or safety implications

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

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

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

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

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

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

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

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

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

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

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

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

Non compliance

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

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

(2) Where—

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

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

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

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

Administrative cooperation and service provision

18.—(1) Competent authorities:

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

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

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

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

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

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