



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 3

UK MARKET ACCESS: PROFESSIONAL QUALIFICATIONS AND REGULATION

24 Access to professions on grounds of qualifications or experience

- (1) Subsection (2) applies in relation to provision applying in a part of the United Kingdom (“the relevant part”) that limits the ability to practise a profession in that part to individuals who have certain qualifications or experience.
- (2) A qualified UK resident (see section 25) is to be treated for the purposes of the provision (and any related provision) as if the qualified UK resident had the qualifications or experience required to be able to practise the profession.
- (3) Provision does not fall within subsection (1) by making the ability of an individual to continue to practise a particular profession, having started to do so on a fully qualified basis, subject to continuing requirements as to training, learning or other forms of experience.
- (4) Subsections (1) and (2) are subject to sections 26 and 27.

25 Meaning of “qualified” UK resident

- (1) A UK resident is “qualified” in relation to a profession for the purposes of section 24(2) if, in any part of the United Kingdom other than the relevant part (“the other part”), the resident is qualified (within the meaning of subsections (3) to (5)) to undertake the full range of corresponding activity.
- (2) In this section—
 - (a) “corresponding activity” means activity that is the same as, or substantially corresponds to, relevant professional activity;
 - (b) “the full range” of corresponding activity is a range of corresponding activity that substantially corresponds to the full range of relevant professional activity;

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- (c) “relevant professional activity” means activity that, in the relevant part, ordinarily comprises the practice of the profession in question.
- (3) To the extent that—
- (a) corresponding activity is ordinarily undertaken by practitioners of a particular profession in the other part, and
 - (b) provision applying in the other part limits the ability to practise that profession to individuals who have certain qualifications or experience,
- a UK resident is qualified to undertake the corresponding activity if the resident has the qualifications or experience required to be able to practise the profession in the other part.
- (4) To the extent that—
- (a) the position is not as described in subsection (3)(a) and (b), and
 - (b) provision applying in the other part limits the ability to undertake corresponding activity to individuals who have certain qualifications or experience,
- a UK resident is qualified to undertake the corresponding activity if the resident has the qualifications or experience required to do so in the other part.
- (5) To the extent that the position is not as described in subsection (3)(a) and (b) or (4)(b), any UK resident is qualified to undertake corresponding activity in the other part.
- (6) For the purposes of subsection (3)—
- (a) it does not matter that corresponding activity may also be undertaken by individuals who are not practitioners of a profession;
 - (b) to the extent that corresponding activity is ordinarily undertaken by practitioners of more than one profession regulated as mentioned in subsection (3)(b), a UK resident is qualified in relation to that activity only if the resident has qualifications or experience required to be able to practise whichever of those professions most closely corresponds to the profession in the relevant part.
- (7) For the purposes of subsections (3) and (4)—
- (a) qualifications may be relied on only if they were obtained in the United Kingdom, and
 - (b) experience may be relied on only if it was obtained mainly in the United Kingdom.

26 Exception from section 24 where individual assessment offered

- (1) Section 24(2) does not apply in a case where the qualified UK resident—
- (a) is able to seek, or has sought, to be able to practise the profession in the relevant part by way of a process that satisfies the requirements of this section, and
 - (b) has not lawfully practised the profession in the relevant part at any time before being able to seek that ability by way of that process.
- (2) The process must have the result that, if the regulatory body so decides on an application by the qualified UK resident, the resident becomes able to practise the profession—
- (a) despite the limitation referred to in section 24(1), and

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- (b) without further assessment of the resident's qualifications, experience, knowledge or skills (except in connection with the sort of provision referred to in section 24(3)).
- (3) The process must require the application to be dealt with in accordance with the principles set out in subsection (4).
- (4) The principles are that, in connection with the ability to practise a profession in the relevant part—
 - (a) qualifications or experience obtained in any other part of the United Kingdom should have the same effect as qualifications or experience obtained in the relevant part, to the extent that the former demonstrate the like knowledge and skills to substantially the same standard as the latter;
 - (b) the applicant should be able to rely on any qualifications or experience obtained in any other part of the United Kingdom in order to demonstrate the necessary knowledge and skills, so far as those qualifications or experience are reasonably capable of demonstrating them;
 - (c) to the extent that the applicant cannot, on application of the principles set out in paragraphs (a) and (b), demonstrate the necessary knowledge and skills to the satisfaction of the regulatory body, the applicant should (subject to subsection (5)) have an opportunity to do so by way of a test or assessment the demands of which are proportionate to the deficiency;
 - (d) if the applicant can, on application of the principles set out in paragraphs (a) to (c), demonstrate the necessary knowledge and skills to the satisfaction of the regulatory body, the regulatory body should decide as mentioned in subsection (2).
- (5) The process may, without contravening the principle set out in subsection (4)(c), allow the regulatory body in a case to which this subsection applies to decline the application without the applicant first being offered a test or assessment as described in that principle.
- (6) Subsection (5) applies if the test or assessment would (having regard to the knowledge and skills demonstrated by the applicant in accordance with the principles set out in subsection (4)(a) and (b)) be similarly demanding to obtaining so much of the usual qualifications or experience as the applicant lacks.
- (7) The process must require the regulatory body to inform the applicant of its decision within a reasonable time from the receipt of the application.
- (8) Subsection (1) ceases to apply in the case of an applicant if, before the regulatory body informs the applicant of its decision—
 - (a) the regulatory body accepts in writing, or
 - (b) a court determines in legal proceedings,that the regulatory body has failed to satisfy the requirement referred to in subsection (7).
- (9) A regulatory body that administers a process to which this section applies must publish information about—
 - (a) the procedure for making an application within the process, and
 - (b) the way in which the principles set out in subsection (4) will be given effect in the context of the profession concerned.

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But a failure to comply with this duty does not mean that the process does not comply with the requirements of this section.

(10) In this section—

“the usual qualifications or experience” means the qualifications or experience that are, under the provision that falls within section 24(1), required in order to be able to practise the profession concerned in the relevant part;

“the necessary knowledge and skills” means the knowledge and skills that are demonstrated by the usual qualifications or experience;

“regulatory body” means—

- (a) the person, if any, responsible for determining whether a person has the qualifications or experience referred to in section 24(1), or
- (b) if there is no such person, the responsible administration;

“responsible administration” means—

- (a) if the relevant part is Scotland and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament, or
 - (ii) is provision which could be made in subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone,

the Scottish Ministers;

- (b) if the relevant part is Wales and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of Senedd Cymru if contained in an Act of Senedd Cymru (assuming that any consent by a Minister of the Crown were given), or
 - (ii) is provision which could be made in subordinate legislation by the Welsh Ministers acting alone,

the Welsh Ministers;

- (c) if the relevant part is Northern Ireland and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of the Northern Ireland Assembly, and would not require the consent of the Secretary of State, if contained in an Act of that Assembly,
 - (ii) is contained in, or was made under, Northern Ireland legislation, and would be within the legislative competence of the Northern Ireland Assembly, and would require the consent of the Secretary of State, if contained in an Act of that Assembly, or
 - (iii) is provision which could be made in subordinate legislation by the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department,

a Northern Ireland department;

- (d) in any other case, the Secretary of State.

27 Other exceptions from section 24

- (1) Section 24(2) does not apply to existing provision (subject to subsection (3)).
- (2) In subsection (1) “existing provision” means—
 - (a) provision that is in force on the date that this Act is passed, or
 - (b) provision that comes into force after that date so far as it is, in substance, a re-enactment or replication of provision within paragraph (a).
- (3) Subsection (1) does not apply (and section 24(2) accordingly does apply) if, after the date on which this Act is passed, provision comes into force in a part of the United Kingdom other than the relevant part that changes the circumstances in which individuals are qualified in relation to the profession concerned.
- (4) In subsection (3)—
 - (a) “relevant part” is to be read in accordance with section 24(1);
 - (b) “qualified” is to be read in accordance with section 25.
- (5) Section 24(2) does not apply in relation to provision that limits the ability to practise a legal profession.
- (6) In subsection (5) “legal profession” means—
 - (a) in relation to England or Wales, the profession of barrister, solicitor, notary, chartered legal executive, costs lawyer, licensed conveyancer or licensed CLC practitioner (see section 53 of the Courts and Legal Services Act 1990);
 - (b) in relation to Scotland, the profession of advocate, solicitor, notary, conveyancing practitioner (see section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990), executry practitioner (see section 18 of that Act) or commercial attorney;
 - (c) in relation to Northern Ireland, the profession of barrister, solicitor or notary;
 - (d) in relation to any part of the United Kingdom, the profession of patent attorney or trade mark attorney.
- (7) Section 24(2) does not apply in relation to provision that limits the ability to practise the profession, or any profession, of school teaching.

28 Professional regulation not within section 24: equal treatment

- (1) This section applies in relation to provision that—
 - (a) is not of the sort described in section 24(1),
 - (b) makes the ability to practise a particular profession in a part of the United Kingdom (“the relevant part”) subject to a requirement or restriction, and
 - (c) applies differently to individuals according to—
 - (i) where any qualifications or experience of an individual were obtained, or
 - (ii) what qualifications or experience an individual has.
- (2) “Requirement or restriction” includes, for example, a requirement as to registration, monitoring, insurance or continuing professional development, or a restriction on the undertaking of particular activities in the course of practising the profession.
- (3) Subsection (4) applies to the extent that—
 - (a) the differential application is within subsection (1)(c)(i), and

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- (b) because of that differential application, the provision has the effect of imposing a more onerous requirement or restriction on an externally qualified UK practitioner than it would have the effect of imposing on a locally qualified practitioner.
- (4) The externally qualified UK practitioner is to be treated for the purposes of the provision (and any related provision) as if the practitioner’s external UK qualifications or experience had been obtained in the relevant part.
- (5) Subsection (6) applies to the extent that—
 - (a) the differential application is within subsection (1)(c)(ii),
 - (b) because of that differential application, the provision has the effect of imposing a more onerous requirement or restriction on an externally qualified UK practitioner than it would have the effect of imposing on a locally qualified practitioner, and
 - (c) the external UK qualifications or experience are of a sort that cannot be obtained in the relevant part.
- (6) The externally qualified UK practitioner is to be treated for the purposes of the provision (and any related provision) as if the practitioner’s external UK qualifications or experience were the nearest equivalent qualifications or experience that can be obtained in the relevant part.
- (7) Subsection (6) does not apply if the more onerous requirement or restriction can reasonably be justified on the grounds of differences between the external UK qualifications or experience and the nearest equivalent qualifications or experience.
- (8) In this section—
 - “locally qualified practitioner” means a UK resident all of whose qualifications and experience were obtained in the relevant part;
 - “externally qualified UK practitioner” means a UK resident any of whose qualifications or experience was obtained in a part of the United Kingdom other than the relevant part;
 - “external UK qualifications or experience” means the qualifications or experience by virtue of which a UK resident is an externally qualified UK practitioner.

29 Interpretation of Part 3

- (1) References in this Part to the ability to practise a profession include reference to the ability—
 - (a) to undertake activities that comprise the practice of a profession,
 - (b) to use a particular professional title, or
 - (c) to be registered, licensed or similarly authorised, where that is required in order to undertake such activities or use such a title.
- (2) Provision that limits the ability referred to in subsection (1)(a) to individuals with certain qualifications or experience falls within section 24(1) only if the activities affected by the provision are, in a significant number of cases, essential to the practice of the profession in question.
- (3) Subsection (4) applies if provision applying in a part of the United Kingdom —
 - (a) enables individuals to practise a profession—

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- (i) on the basis of certain qualifications or experience, or not on the basis of any particular qualifications or experience, only following an individual assessment, and
 - (ii) on the basis of certain qualifications or experience, without the need for an individual assessment, or
 - (b) generally enables individuals to practise a profession only following an individual assessment, but provides for a less demanding assessment in some cases than in others according to what qualifications or experience an individual has.
- (4) References in section 24 to the ability to practise a profession are to be read, in relation to the profession to which the provision relates, as references to the ability to practise the profession—
 - (a) if the provision is within subsection (3)(a), without the need for an individual assessment, or
 - (b) if the provision is within subsection (3)(b), following an individual assessment of the least demanding sort provided for.
- (5) In subsections (3) and (4), “individual assessment” means an assessment of the individual’s qualifications, experience, knowledge or skills.
- (6) For the purposes of this Part a qualification is “obtained” in the place where the body that issues it is based.
 - A body is “based”—
 - (a) where its registered office is,
 - (b) if it does not have a registered office, where its head office is, or
 - (c) if it does not have a registered office or a head office, where its principal place of operation is.
- (7) References in this Part (however expressed) to the effect of “provision” are to the effect that it would have disregarding this Part.
- (8) In this Part—
 - “profession” includes—
 - (a) an occupation or trade, and
 - (b) any subdivision of, or distinct specialism within, a profession;
 - “provision” means—
 - (a) provision contained in legislation, or
 - (b) provision not of a legislative character but made under, and given effect by, legislation;
 - “qualification” means any record, issued by a body whose ordinary activities include the issuing of such records, of having attained a particular standard following a course of study or training;
 - “UK resident” means an individual who is lawfully resident in the United Kingdom; and for this purpose an individual is not lawfully resident in the United Kingdom if the individual requires leave to enter or remain in the United Kingdom but does not have it.