
STATUTORY INSTRUMENTS

2003 No. 3148

**The European Qualifications (Health
Care Professions) Regulations 2003**

DOCTORS—SPECIALISTS

Amendment of the European Specialist Medical Qualifications Order 1995

10.—(1) The European Specialist Medical Qualifications Order 1995(1) is amended in accordance with this regulation.

(2) In article 2 (interpretation)—

(a) in the definition of “the Directive”, for paragraph (1)(b), substitute—

“(b) as amended by—

- (i) the Act annexed to the Treaty relating to the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union signed at Corfu on the 24th June 1994(2), as adjusted by the Decision of the Council of the European Union of 1st January 1995 adjusting the instruments concerning the accession of new Member States to the European Union(3),
- (ii) Council Directive 97/50/EC of 6th October 1997(4), Commission Directive 98/21/EC of 8th April 1998(5), Commission Directive 98/63/EC of 3rd September 1998(6), Commission Directive 1999/46/EC of 21st May 1999(7) and Directive 2001/19/EC of 14th May 2001(8), and
- (iii) 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.”;

(b) in paragraph (2), in the definition of—

- (i) “EEA”, after “Area”, add “which shall be read as including Switzerland”;
- (ii) “EEA Agreement”, after “1993”, add “and as amended by Decisions of the EEA Joint Committee Nos. 7/94 of 21st March 1994(9), 190/1999 of 17th December 1999(10), 89/2000 of 27th October 2000(11), and 84/2002 of 25th June 2002(12)”;
- (iii) “EEA State”, after “Agreement”, add “or Switzerland”.

(1) S.I.1995/3208, amended by S.I. 1997/2928, 1999/1373, 1999/3154 and 2002/849.

(2) O.J. No. C241, 29.8.1994, p.21. Norway did not ratify the Treaty.

(3) O.J. No. L 1, 1.1.1995, p.1.

(4) O.J. No. L 291, 24.1.1997, p.35.

(5) O.J. No. L 119, 22.4.1998, p.15.

(6) O.J. No. L 253, 15.9.1998, p.24.

(7) O.J. No. L 139, 2.6.1999, p.25.

(8) O.J. No. L 206, 31.7.2001, p.1.

(9) O.J. No. L 160, 28.6.1994, p.1.

(10) O.J. No. L 74, 15.3.2001, p.26.

(11) O.J. No. L 7, 11.1.2001, p.9.

(12) O.J. No. L 266, 3.10.2002, p.36. The Agreement has been amended by other Decisions which are not relevant to the Directive.

- (3) In article 3 (the competent authorities), in paragraph (4)—
- (a) in sub-paragraph (b)(ii), for “requirement to verify content and duration of foreign specialist training”, substitute “requirement to assess content and duration of training, to take account of professional experience etc.”;
 - (b) in sub-paragraph (c)(ii), for “training already undertaken abroad”, substitute “additional training already undertaken and professional experience etc. already acquired”; and
 - (c) after sub-paragraph (c)(ii), insert—
 - “(ia) article 8(4) (requirement to give a decision within four months of receipt of an application together with full supporting documentation).”.
- (4) After article 8 (the specialist register), insert—
- “8A.—**(1) In the case of an exempt person, the Registrar of the GMC shall, within the specified period, give the applicant notice—
- (a) of the decision on the application referred to in paragraph (3); and
 - (b) where the decision is that the Registrar is not satisfied as mentioned in paragraph (3), of—
 - (i) the reasons for the decision, and
 - (ii) the applicant’s right to appeal under paragraph (6).
- (2) Failure to notify an applicant who is an exempt person of a decision within the specified period shall be treated as a decision from which the applicant may appeal under paragraph (6).
- (3) In paragraphs (1), (2) and (5), “the specified period” means—
- (a) the period of three months—
 - (i) beginning with the date on which the Registrar of the GMC receives the application together with full supporting documentation, or
 - (ii) if earlier, in a case mentioned in paragraph (4), beginning with the date on which the STA receives all the documents enabling it to determine whether the applicant is an eligible specialist; or
 - (b) such longer period as is permitted by article 15 of the Directive.
- (4) Where an exempt person must satisfy the STA as to matters referred to in article 9(2) or (3) before the Registrar of the GMC is able to give a decision under article 8(3), the STA shall deal expeditiously with the matters before it to enable the GMC Registrar to give notice under paragraph (1) within the specified period.
- (5) In calculating the period of three months referred to in paragraph (3), the period—
- (a) beginning with the date on which the STA gives the applicant notice under article 9(5); and
 - (b) ending with the date on which the Registrar of the GMC receives all the documents enabling him to be satisfied of the applicant’s entitlement to have his name included in the specialist register in accordance with article 8(3),
- shall be disregarded.
- (6) If the Registrar of the GMC decides in respect of an exempt person that he is not satisfied as mentioned in article 8(3), the applicant may appeal against the decision to a Registration Appeals Panel and Schedule 3A to the Medical Act 1983 shall apply to such an appeal, with the necessary modifications, as if the appeal were an appeal under paragraph 4 of that Schedule.

- (7) In this Part, “exempt person” means a person who—
- (a) is a national of an EEA State who is exercising an enforceable Community right; or
 - (b) is not a national of an EEA State, but is, by virtue of a right conferred by article 11 of Regulation (EEC) No. 1612/68, or any other enforceable Community right, entitled to be treated, for the purposes of access to the medical profession, no less favourably than a national of such a State.”
- (5) In article 9 (eligible specialists), for paragraph (4) substitute—
- “(4) In the case of an exempt person, the STA shall, when considering whether it is satisfied as mentioned in paragraph (2) or (3), take account of—
- (a) all his medical qualifications, knowledge or experience, wherever acquired, which are relevant to its determination; and
 - (b) where he has specialist qualifications awarded outside the EEA which have been accepted by another EEA State as qualifying him to practise as a specialist in that State, of that acceptance.”
- (6) After article 9(4), add—
- “(5) In the case of an exempt person who applies to the STA for a determination that he is an eligible specialist within paragraph (2) or (3), the STA shall give the applicant notice—
- (a) of the decision on the application; and
 - (b) where it is not satisfied as mentioned in paragraph (2) or (3), of the reasons for the decision and the applicant’s right to appeal under article 13.”
- (7) In article 10 (recognised specialist medical qualifications), in paragraph (1)—
- (a) for sub-paragraph (a), substitute—

“(a) a qualification listed in Annex B to the Directive (which sets out the titles of specialist qualifications in EEA States) granted in an EEA State other than the United Kingdom (these qualifications are set out in Schedule 4) in a specialty listed in Annex C to the Directive in which the United Kingdom is shown as awarding qualifications;”;
 - (b) in sub-paragraph (c)—
 - (i) for “article 5(3) of the Directive or in a specialty referred to in article 7(2) of”, substitute “Annex C to”,
 - (ii) in head (ii), for “article 5(2), 5(3) or 7(2) of”, substitute “Annex B or Annex C to”, and
 - (iii) in head (iii), for “article 5 or 7 of the Directive”, substitute “Annex B to the Directive in the appropriate specialty referred to in Annex C to the Directive”;
 - (c) after paragraph (d), add—

“(e) subject to compliance with paragraph (2A), any qualification which is evidence of training which did not accord with the standards laid down by articles 24 to 27 of the Directive, undertaken in Spain and completed before 1st January 1995.”
- (8) In article 10(2)(a), for “article 5 or 7 of the Directive”, substitute “Annex B to the Directive in a specialty listed in Annex C to the Directive”.
- (9) After article 10(2), insert—
- “(2A) This paragraph is complied with where the holder of the qualification referred to in paragraph (1)(e) provides the GMC with—

- (a) evidence of the qualification; and
 - (b) a certificate of the competent authorities in Spain certifying that he has passed the test of specific professional competence organised under the special regularisation measures contained in Royal Decree 1497/99 which demonstrates that he has a level of knowledge and competence comparable to that attested to by a qualification set out under the heading for Spain in Annex B to the Directive in the appropriate specialty referred to in Annex C to the Directive.”
- (10) In article 10(3), omit “or” after paragraph (d), and after paragraph (d) insert—
“(da) 1st June 2002, in the case of Switzerland; or”.
- (11) For Schedule 4 (specialist medical qualifications awarded in EEA States other than the United Kingdom), substitute the Schedule 4 set out in Part II of Schedule 4 to these Regulations.