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STATUTORY INSTRUMENTS

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**2007 No. 3101**

**The European Qualifications (Health and  
Social Care Professions) Regulations 2007**

**PART 21**

**OTHER HEALTH PROFESSIONS: HEALTH PROFESSIONS ORDER 2001**

**Amendment of the Health Professions Order 2001**

**266.** The Health Professions Order 2001 <sup>M1</sup> is amended in accordance with this Part.

**Marginal Citations**

**M1** [S.I. 2002/254](#).

**Amendment of article 6**

**267.** In article 6 (register), in paragraph (3), after sub-paragraph (a) insert—

“(aa) the register to include an annotation denoting that a registrant is a visiting health professional from a relevant European State;”.

**Amendment of article 7**

**268.** In article 7 (the register: supplemental provisions), after paragraph (3) add—

“(4) Rules under this article shall not provide for fees to be charged in respect of a person's registration in exercise of entitlement under article 13A (visiting health professionals from relevant European States).”.

**Amendment of article 8**

**269.** In article 8 (access to register etc), in paragraph (5)—

- (a) for “EEA State” substitute “relevant European State”; and
- (b) for “the relevant Directive” substitute “the relevant provisions of Directive [2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications <sup>M2</sup>, as those provisions are amended from time to time”.

**Marginal Citations**

**M2** OJ No. L255, 30.09.2005, p.22, as amended by Council Directive 2006/100/EC of 20th November 2006, OJ No. L363 of 20.12.2006, p.141.

### Amendment of article 9

270. In article 9 (registration)—

- (a) in paragraph (1), for “A person” substitute “ Subject to paragraph (8), a person ”;
- (b) in paragraph (5), for “the European Communities (Recognition of Professional Qualifications) Regulations” to the end substitute “ the General Systems Regulations. ”;
- (c) in paragraph (6), omit “under article 37”; and
- (d) after paragraph (7) add—

“(8) This article does not apply to a person who seeks registration in exercise of entitlement under article 13A (visiting health professionals from relevant European States).”.

### Amendment of article 10

271. In article 10<sup>M3</sup> (renewal of registration and readmission)—

- (a) in paragraph (1), for “Where a person” substitute “ Subject to paragraph (6), where a person ”; and
- (b) after paragraph (5) add—

“(6) This article does not apply to a visiting health professional from a relevant European State.”.

#### Marginal Citations

M3 Article 10 was amended by [S.I. 2004/2033](#).

### Amendment of article 12

272. In article 12 (approved qualifications)—

- (a) in paragraph (1)—
  - (i) for sub-paragraph (b) substitute—
    - “(b) he is an exempt person and has a right to practise a relevant profession in the United Kingdom by virtue of Part 3 of the General Systems Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to undertake pursuant to that Part of those Regulations); or”, and
  - (ii) in sub-paragraph (c), for paragraph (iii) substitute—
    - “(iii) (except where he is an exempt person) he satisfies prescribed requirements as to knowledge of English.”; and

(b) after paragraph (1) insert—

“(1A) In considering whether an exempt person to whom paragraph (1)(c) applies is to be regarded as having an approved qualification, the Council shall take into account—

- (a) if the person holds a qualification in a relevant profession which—
  - (i) was granted otherwise than in relevant European State, but
  - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying him to practise that profession in that State, the acceptance of that qualification; and

- (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of the application.”.

### **Insertion of article 13A**

**273.** After article 13 insert—

#### **“Visiting health professionals from relevant European States**

**13A.**—(1) This article applies to an exempt person (“V”) who is lawfully established, in a relevant European State other than the United Kingdom (“State A”), as a member of one of the relevant professions (“the established profession”).

(2) Paragraph (3) applies if V has the benefit of regulation 8 of the General Systems Regulations in connection with the provision by V of relevant services in the United Kingdom on a temporary and occasional basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of relevant services).

(3) V is entitled to be registered in the part of the register relating to the established profession; and the Registrar shall give effect to the entitlement.

(4) If V is entitled under paragraph (3) to be registered, but is not registered in the part of the register relating to the established profession, V shall be treated as being registered in that part.

(5) V's entitlement under paragraph (3) ceases if V ceases, whether as a result of the operation of regulation 17 of the General Systems Regulations or otherwise, to have the benefit of regulation 8 of those Regulations in connection with the provision by V of relevant services in the United Kingdom on a temporary and occasional basis.

(6) If—

- (a) V's entitlement under paragraph (3) ceases by reason of the operation of paragraph (5), and
- (b) V is registered,

the Registrar may remove V's name from the register.

(7) Paragraph (8) applies if—

- (a) V's establishment in State A is subject to a condition relating to V's practice of the established profession,
- (b) V's name is registered in the part of the register relating to the established profession, and
- (c) for any of the purposes of this Order it falls to be decided whether V's fitness to practise is or may be impaired on the ground of misconduct.

(8) The matters that may be counted as misconduct include (in particular) any act or omission by V during the course of the provision by V of relevant services in the United Kingdom on a temporary and occasional basis that is, or would be if the condition applied in relation to practice of the established profession outside State A, a breach of the condition.

(9) In paragraphs (7) and (8) “condition” includes limitation.

(10) Paragraphs (1) to (6) are not to be taken to prejudice the application, in relation to registrants, of any other provision of this Order under which a registrant's name may be removed from the register or under which a registrant's registration may be suspended.

(11) In this article “relevant services” means services provided in pursuit of the established profession.”.

### **Amendment of article 19**

**274.** In article 19 (post-registration training), after paragraph (2) insert—

“(2A) Paragraphs (1) and (2), so far as relating to a person (“P”)—

- (a) who is registered in the part of the register relating to a relevant profession (“the established profession”), and
- (b) whose entry in that part of the register includes an annotation denoting that P is a visiting health professional from a relevant European State,

have effect subject to, respectively, paragraphs (2B) and (2C).

(2B) Rules made under paragraph (1)—

- (a) may not impose requirements on P in connection with P's pursuit of the established profession if P is required to undertake, in P's home State, continuing professional development in relation to the established profession; and
- (b) where they impose requirements on P in connection with P's pursuit of the established profession—
  - (i) shall take account of the fact that P is fully qualified to pursue the established profession in P's home State, and
  - (ii) shall specify that continuing professional development which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(2C) Where rules make provision such as is mentioned in paragraph (2), the rules must secure that any sanction imposed in relation to P by or under that provision is appropriate and proportionate in view of P's continued lawful establishment as a member of the established profession in P's home State.

(2D) In paragraphs (2B) and (2C) “home State”, in relation to P, means the relevant European State in which P is lawfully established as a member of the established profession.”.

### **Amendment of article 37**

**275.** In article 37 <sup>M4</sup> (appeals against decisions of the Education and Training Committee), in paragraph (1), after sub-paragraph (a) insert—

“(aa) refuses to register a person under article 13A (visiting health professionals from relevant European States);”.

#### **Marginal Citations**

**M4** Article 37 was amended by [S.I. 2004/2033](#).

### **Amendment of article 38**

**276.** In article 38 <sup>M5</sup> (appeals)—

- (a) in paragraph (1)(b), for “any decision of the Council under article 37” substitute “ a decision of the Council mentioned in paragraph (1A) ”; and
- (b) after paragraph (1) insert—

- “(1A) The decisions referred to in paragraph (1)(b) are—
- (a) any decision of the Council under article 37;
  - (b) a decision of the Council under Part 3 of the General Systems Regulations requiring an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to have access to, and to pursue, a relevant profession in the United Kingdom.”.

**Marginal Citations**

**M5** Article 38 was amended by [S.I. 2004/2033](#).

**Amendment of Schedule 3**

277. In Schedule 3 <sup>M6</sup> (interpretation), in paragraph 1—
- (a) omit the definitions of “EEA national” and “EEA State”;
  - (b) for the definition of “exempt person” substitute—  
““exempt person” means—
    - (a) a national of a relevant European State other than the United Kingdom,
    - (b) a national of the United Kingdom who is seeking access to, or is pursuing, a relevant profession by virtue of an enforceable Community right; or
    - (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to and pursuit of a relevant profession, no less favourably than a national of a relevant European State;”;
  - (c) after the definition of “exempt person” insert—  
““General Systems Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007 <sup>M7</sup>;”;
  - (d) in the definition of “national”, for “an EEA State” substitute “a relevant European State”;
  - (e) after the definition of “Registrar” insert—  
““relevant European State” means an EEA State or Switzerland;”;
  - (f) after the definition of “United Kingdom country” add—  
““visiting health professional from a relevant European State” means a person registered in exercise of entitlement under article 13A (visiting health professionals from relevant European States).”.

**Marginal Citations**

**M6** Schedule 3 was amended by [S.I. 2003/3148](#) and 2004/1947 and 2033.

**M7** [S.I. 2007/2781](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, PART 21.