

EXPLANATORY MEMORANDUM TO
THE EUROPEAN QUALIFICATIONS (HEALTH AND SOCIAL CARE
PROFESSIONS) (AMENDMENT) REGULATIONS 2008

2008 No. 462

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This amendment changes the date of coming into force of the provisions in the European Qualifications (Health and Social Care Professions) Regulations 2007 (“the 2007 Regulations”) that relate to the statutory regulation of pharmacy technicians. Statutory regulation of pharmacy technicians will commence with the opening of the statutory register of pharmacy technicians, which will take place when article 21 of the Pharmacists and Pharmacy Technicians Order 2007 (“the 2007 Order”) is commenced. This was due to take place on 1st April 2008 but has been delayed until a date yet to be specified, but probably early 2009.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Directive 2005/36/EC requires EU member states to operate a system to recognise the qualifications obtained in other EEA States or in Switzerland, and so allow migrants to take up work in statutorily regulated professions in their new State on the basis of qualifications obtained in their State of origin. This Directive was implemented into UK law, as regards health and social care professions, by the 2007 Regulations. Pharmacy technicians are not yet statutorily regulated and so do not yet come within the ambit of Directive 2005/36/EC. The 2007 Order provides for the statutory regulation of pharmacy technicians in England and Wales, but the relevant provisions of the 2007 Order are not yet in force. It is proposed that they will not now be brought into force until they are amended so as to provide for the statutory regulation of pharmacy technicians across the whole of Great Britain. The draft Health Care and Associated Professions (Miscellaneous Amendments) (No. 2) Order 2008, which will make the necessary amendments to the 2007 Order, is currently being consulted on and is due to be laid before Parliament in the summer or autumn of 2008. It is hoped that statutory regulation of pharmacy technicians will then be introduced in early 2009.

5. Extent

5.1 This instrument applies to all of the United Kingdom, notwithstanding that it relates to amendments to the 2007 Order, which applies only to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government is committed to meeting its obligations under European legal requirements. The 2007 Regulations transpose into UK law the provisions of Directive 2005/36/EC and amongst other things amend the 2007 Order provisions relating to the regulation of pharmacy technicians. Once statutory regulation of pharmacy technicians is commenced, the amendments necessary to bring into force the changes to statutory regulation of health care professions brought about Directive 2005/36 will commence automatically at the same time. This is brought about by linking the changes made to the 2007 Order by the 2007 Regulations to the date of commencement of article 21 of the 2007 Order, which will be the date of the opening of the statutory register of pharmacy technicians – and so the date on which statutory regulation of pharmacy technicians is commenced. If this amendment was not made now, the amendments to the 2007 Order would come into force before the provisions of the 2007 Order that they amend, which would not make sense.

7.2 The Department of Health has consulted the Royal Pharmaceutical Society of Great Britain and the Pharmaceutical Society of Northern Ireland, the two regulatory bodies which are the designated competent authorities in the UK to take responsibility for recognition of pharmacy technician qualifications (regulation will be voluntary in Northern Ireland). Both have notified that they are content with this amendment. The Health Departments in the Devolved Administrations have also notified that they are content.

8. Impact

The impact on the public sector is minimal. Very few pharmacy technicians apply to work in the UK from the EEA.

9. Contact

Kate Ling at the Department of Health Tel: 0113 254 6786 or e-mail: Kate.Ling@dh.gsi.gov.uk can answer any queries regarding the instrument.