
STATUTORY INSTRUMENTS

2015 No. 2059

**The European Union (Recognition of
Professional Qualifications) Regulations 2015**

PART 3

Freedom of Establishment

CHAPTER 1

General System for the Recognition of Training

Levels of qualification

27. For the purpose of applying conditions for recognition under regulation 29, professional qualifications are grouped under the following levels—

- (a) an attestation of competence issued by a competent authority of a relevant European State on the basis of either—
 - (i) a training course not forming part of a certificate or diploma within the meaning of paragraphs (b), (c), (d) or (e), or a specific examination without prior training, or full-time pursuit of the profession in another relevant European State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years, or
 - (ii) general primary or secondary education, attesting that the holder has acquired general knowledge;
- (b) a certificate attesting to a successful completion of a course of secondary education either—
 - (i) general in character, supplemented by a course of study or professional training other than that referred to in paragraph (c) and/or by the probationary or professional practice required in addition to that course, or
 - (ii) technical or professional in character, supplemented where appropriate by a course of study or professional training as referred to in sub-paragraph (i), and/or by the probationary or professional practice required in addition to that course;
- (c) a diploma certifying successful completion of either—
 - (i) training at post-secondary level other than that referred to in paragraphs (d) and (e) of a duration of at least one year or of an equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education or the completion of equivalent school education of the second secondary level, as well as the professional training which may be required in addition to that post-secondary course; or
 - (ii) regulated education and training or, in the case of a regulated profession, vocational training with a special structure with competences going beyond what is provided

for at paragraph (b) equivalent to the level of training provided for under sub-paragraph (i), which provides a comparable professional standard and which prepares the trainee for a comparable level of responsibilities and functions provided that the diploma is accompanied by a certificate from the home state;

- (d) a diploma certifying successful completion of training at post-secondary level of at least three and not more than four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment providing the same level of training, and that the applicant has successfully completed the professional training which may be required in addition to that post-secondary course;
- (e) a diploma certifying that the holder has successfully completed a post-secondary course of at least four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment providing the same level of training, and that the applicant has successfully completed the professional training which may be required in addition to the post-secondary course.

Equal treatment of qualifications

28.—(1) Any evidence of formal qualifications or set of evidence of formal qualifications must be treated as evidence of formal qualifications of a type covered by regulation 27, including the level in question if such evidence or set of evidence—

- (a) is issued by the competent authority of a relevant European State certifying successful completion of training in any of the relevant European States on a full or part time basis, within or outside formal programmes, which is recognised by that relevant European State as being of an equivalent level, and
- (b) confers on the holder the same rights of access to or pursuit of a profession or prepares the applicant for the pursuit of that profession.

(2) Any professional qualification shall be treated as evidence of formal qualifications under the same conditions as set out in paragraph (1) where such professional qualification—

- (a) does not satisfy the requirements contained in the legislative, regulatory or administrative provisions in force in the home State for access to or the pursuit of a profession; but
- (b) confers on the holder acquired rights by legislative, regulatory or administrative provisions in force in the home State.

(3) In a case within paragraph (2), where—

- (a) the home State raises the level of training required for admission to a profession and for its exercise, and
- (b) an applicant, having undergone former training which does not meet the requirements of the new qualification, benefits from acquired rights by virtue of legislative, regulatory or administrative provisions in the home State

the former training shall be considered by competent authorities as corresponding to the level of the new training.

Conditions for recognition

29.—(1) Subject to a requirement by the competent authority pursuant to regulation 32, if access to or pursuit of a regulated profession in United Kingdom is contingent on possession of specific qualifications, a competent authority must permit access to and pursuit of that regulated profession to an applicant under the same conditions as apply to a UK applicant, where that applicant—

- (a) possesses the attestation of competence or evidence of formal qualifications required by another relevant European State, where the profession is regulated, in order to gain access to and pursue that same profession in that relevant European State, or
 - (b) has pursued that same profession on a full time basis for one year or for an equivalent overall duration on a part-time basis during the previous ten years in another relevant European State which does not regulate that profession, provided that the applicant possesses one or more attestations of competence or documents providing evidence of formal qualifications issued by a relevant European State which does not regulate that profession.
- (2) Attestations of competence or evidence of formal qualifications must satisfy the following conditions—
- (a) they must have been issued by a competent authority of another relevant European State;
 - (b) where paragraph (1)(b) applies, they must also attest that the applicant has been prepared for the pursuit of the profession in question.
- (3) A competent authority may not require the one year of professional experience referred to in paragraph (1)(b) if the evidence of formal qualifications which the applicant possesses certifies regulated education and training.
- (4) A competent authority must accept the level attested under regulation 27 by the home State as well as the certificate by which the home State certifies that regulated education and training or vocational training with a special structure referred to in regulation 27(c)(ii) is equivalent to the level provided for in regulation 27(c)(i).
- (5) A competent authority may refuse access to and pursuit of a regulated profession where access to this profession is contingent in the United Kingdom on possession of a qualification set out in regulation 27(e) and where the applicant possesses an attestation of competence classified under regulation 27(a).

Compensation measures - adaptation periods and aptitude tests

30.—(1) An adaptation period means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a period of pursuit of the regulated profession under the supervision of a qualified member of that profession, subject to an assessment of the ability of the applicant to pursue that profession in the United Kingdom.

(2) The competent authority must clearly set out the detailed rules governing the adaptation period and its assessment, having regard to the circumstances of each individual applicant and, in particular, to the fact that the applicant is a qualified professional in another relevant European State.

(3) The applicant may be required to undergo further training during the adaptation period.

(4) The applicant's performance during the adaptation period must be assessed by the competent authority.

(5) The professional status of an applicant during the adaptation period will be a matter for the competent authority.

31.—(1) An aptitude test means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a test of the applicant's professional knowledge, skills and competences carried out or recognised by the competent authority with the aim of assessing the ability of the applicant to pursue that profession in the United Kingdom.

(2) The test must take into account that the applicant is a qualified professional in another relevant European State.

(3) The competent authority must determine the matters to be covered by the aptitude test as follows—

- (a) the competent authority must draw up a list of subjects which, on the basis of a comparison between the education and training required for the practice of the profession required in the United Kingdom and that received by the applicant, have not been covered by the diploma or other evidence of formal qualifications possessed by the applicant;
 - (b) the test must cover subjects selected from those so listed, the knowledge of which is essential for the pursuit of the regulated profession in the United Kingdom; and
 - (c) the test may include knowledge of the relevant rules of professional conduct.
- (4) The detailed application of the aptitude test and the professional status of an applicant preparing for the aptitude test will be a matter for the competent authority.

Conditions for compensation measures

32.—(1) A competent authority may, before authorising the applicant to practise the regulated profession in the United Kingdom, require the applicant in the circumstances specified in paragraph (3) either—

- (a) to complete an adaptation period of up to three years with a successful assessment, or
- (b) to take and pass an aptitude test.

(2) If a competent authority intends to require the applicant to complete an adaptation period or take an aptitude test, it must first examine whether the knowledge, skills and competences acquired by the applicant in the course of the applicant's professional experience or through lifelong learning, and formally validated to that effect in a relevant European State or in a third country is such that it fully or partly covers substantially different matters.

(3) A competent authority may require the applicant to complete successfully an adaptation period or pass an aptitude test if—

- (a) the training the applicant has received covers substantially different matters than those covered by the evidence of formal qualifications required for the regulated profession in the United Kingdom; or
- (b) the regulated profession in the United Kingdom—
 - (i) comprises one or more regulated professional activities which do not exist in the profession in the applicant's home State; and
 - (ii) the specific training which is required by the regulated profession covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.

(4) Where a competent authority decides that an aptitude test is necessary, it must permit the applicant the opportunity of taking the test within six months of the decision imposing an aptitude test on the applicant.

(5) In this regulation, "substantially different matters" means matters of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the applicant shows significant differences in terms of duration or content from the training required in the United Kingdom.

33. Where a competent authority considers it necessary to impose an adaptation period or aptitude test, it must inform the applicant of—

- (a) the level of professional qualification required in the United Kingdom and the level of qualification held by the applicant in accordance with the classification set out in regulation 27; and
- (b) the substantial differences referred to in regulation 32(2) and (3) and the reasons for which those differences cannot be compensated by the knowledge, skills and competence

acquired in the course of professional experience or lifelong learning formally validated by a relevant body.

34. Where a requirement is imposed under regulation 32(1), the choice between an adaptation period and aptitude test must be that of the applicant except—

- (a) in the regulated professions set out in the first column of the table in Part 1 of Schedule 3, whose pursuit requires precise knowledge of national law and in respect of which the provision of advice or assistance or both concerning national law is an essential and constant aspect of the professional activity, where the requirements set out in the second column of that table in respect of each profession shall apply, or
- (b) in cases specified in—
 - (i) regulation 3(8)(a) (except for nurses responsible for general care and midwives) and (b);
 - (ii) regulation 3(8)(c) concerning only doctors and dental practitioners;
 - (iii) regulation 3(8)(d), where the applicant is a specialist nurse without training as a general nurse and seeks recognition in the United Kingdom where the relevant professional activities are pursued by nurses responsible for general care or specialised nurses holding evidence of formal qualifications as a specialist which follows the training leading to the possession of the titles listed in Annex V, point 5.2.2 of the Directive; or
 - (iv) regulation 3(8)(e);

where for each of the professions set out in the first column of the table in Part 2 of Schedule 3, the requirements set out in the second column of that table shall apply;

- (c) in the case of a holder of a professional qualification referred to in regulation 27(a) who applies for recognition of that holder's professional qualifications where the national professional qualification required is classified under regulation 27(c), where the Secretary of State may, in respect of a particular profession, either require an aptitude test or require an adaptation period;
- (d) in the case of a holder of a professional qualification referred to in regulation 27(b) who applies for recognition of that holder's professional qualification where the national professional qualification required is classified under regulation 27(d) or (e), where the Secretary of State may, in respect of a particular profession, either require an aptitude test or require an adaptation period;
- (e) in the case of a holder of a professional qualification referred to in regulation 27(a) who applies for recognition of the qualification where the national professional qualification required is classified under regulation 27(d), where the Secretary of State may, in respect of a particular profession, require both an adaptation period and an aptitude test.

CHAPTER 2

Recognition of Professional Experience

Automatic Recognition

35. Where an applicant applies for recognition, a competent authority must recognise, by way of a certificate in accordance with Annex VII(1)(c) of the Directive, previous pursuit of one of the activities listed in Part 3 of Schedule 1 in another relevant European State as sufficient proof of knowledge and aptitudes where the previous pursuit of that activity is in accordance with Schedule 4.

CHAPTER 3

United Kingdom Certificates of Experience

Issue and revocation of Certificates of Experience

36.—(1) The Secretary of State delegates to ECCTIS Limited⁽¹⁾ the function of issuing a certificate, to be called a “Certificate of Experience”.

(2) A Certificate of Experience must be issued to a person from a relevant European State who makes an application to ECCTIS Limited for the issue of such a certificate in respect of a relevant activity and satisfies ECCTIS Limited as to their relevant experience and qualifications gained in the United Kingdom as set out in Schedule 4.

(3) For the purpose of this regulation, a relevant activity is an activity which falls within the lists of activities set out in Annex IV of the Directive.

37.—(1) Where the Secretary of State is satisfied that—

- (a) a certificate was issued in reliance upon a false or fraudulent representation or declaration, either orally or in writing; or
- (b) information in reliance upon which a certificate has been issued is not correct or is not correct in a material particular and that the experience or qualifications to which the certificate attests have not been attained,

the Secretary of State may revoke the certificate by notice in writing sent to the person named in the certificate, subject to paragraphs (2) and (3).

(2) Before revoking the certificate the Secretary of State must use reasonable endeavours to serve on the person named in the certificate a notice—

- (a) specifying that the Secretary of State is minded to revoke the certificate;
- (b) specifying the false or fraudulent representations or declarations or the incorrect information upon which a certificate has been issued;
- (c) specifying the effect of the matters set out in sub-paragraph (b) on the truth of the certificate; and
- (d) inviting that person within a reasonable period of not less than 28 days to submit representations in writing as to—
 - (i) the relevance of the false or fraudulent representations or declarations in relation to the certificate or the matters to which it attests; and
 - (ii) any other reason and why the Secretary of State should not revoke the certificate.

(3) The Secretary of State must consider any representation submitted within the period specified in the notice under paragraph (2).

CHAPTER 4

Common Provisions on Establishment

Documentation and formalities

38.—(1) When considering an application for authorisation to pursue a regulated profession, other than an application for a European Professional Card, the competent authority may in accordance with the provisions of Annex VII of the Directive—

- (a) require the documents and certificates listed in that Annex, and

(1) ECCTIS Limited is a private limited company registered in England and Wales with company number 2405026.

- (b) invite the applicant to provide information concerning the applicant's training to the extent necessary in order to determine the existence of potential substantial differences with the training requirements in the United Kingdom, or if it is impossible for the applicant to provide such information, the competent authority shall address the assistance centre, the competent authority or any other relevant body in the home State.

(2) The documents referred to in point 1(d), (e) and (f) of Annex VII, shall not be more than three months old by the date on which they are submitted.

- (3) The competent authority must keep confidential all such information received by it.

39.—(1) A competent authority, in cases of justified doubt, may require from a competent authority of a relevant European State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other relevant European State.

(2) A competent authority, in cases of justified doubt, is entitled, where evidence of formal qualifications has been issued by a competent authority of a relevant European State and includes training received in whole or in part in an establishment legally established in a relevant European State other than that which awarded the qualification, to verify with a competent authority of the relevant European State of origin of the award—

- (a) whether the training course at the establishment which gave the training has been formally certified by the educational establishment in the relevant European State of origin of the award;
- (b) whether the evidence of formal qualifications issued is the same as that which would have been awarded if the course had been followed in the relevant European State of origin of the award; and
- (c) whether the evidence of formal qualifications confers the same professional rights in the territory of the relevant European State of origin of the award.

(3) A competent authority, in cases of justified doubt, is entitled to require confirmation from a competent authority of a relevant European state that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of the applicant's professional activities.

40. Where an applicant is required to swear a solemn oath or make a sworn statement, the form of which is such that it cannot be taken or made by applicants of another relevant European State, the competent authority must ensure that an appropriate equivalent form of oath or declaration is available for those applicants.

41. Exchanges by competent authorities under regulations 38 and 39 shall take place through IMI.

Decisions of competent authorities

42.—(1) The competent authority must acknowledge receipt of an applicant's application to establish himself in the United Kingdom pursuant to Part 3 of these Regulations within one month of receipt, and must inform the applicant if any document is missing.

(2) The competent authority must consider the applicant's application as soon as is reasonably practicable, and must notify the applicant of its decision together with the reasons upon which it is based—

- (a) within four months, for applications under Chapter 1 of this Part, or
- (b) within three months, for applications under Chapter 2 of this Part,

of receipt of all the relevant documentation.

(3) The decision referred to in paragraph (2), or failure to take that decision within the deadlines set out in that paragraph, is subject to appeal pursuant to regulation 68.

(4) For the purposes of this regulation, if a competent authority fails to take a decision and notify it to the applicant within the period mentioned in paragraph (2), it shall be deemed to have taken a decision to reject the application and to have notified it to the applicant on the last day of that period.

(5) This regulation does not apply to a competent authority acting in relation to an application for a European Professional Card for establishment in the United Kingdom.

Use of professional titles

43.—(1) If the use of a professional title relating to one of the activities of the profession in question is regulated in the United Kingdom, applicants who are authorised to practise a regulated profession in accordance with this Part of these Regulations must use the professional title used in the United Kingdom which corresponds to that profession, and make use of any associated initials.

(2) Where a profession is regulated in the United Kingdom by a professional association, applicants must not be authorised to use the professional title issued by that professional association, or its abbreviated form, unless they furnish proof that they are members of that professional association.

(3) A professional association that makes membership contingent upon certain qualifications may do so only under the conditions laid down in these Regulations in respect of applicants who possess professional qualifications.

(4) A professional association in the United Kingdom may only reserve use of a professional title to the holders of professional qualifications if the title has been notified to the Commission and other member states.