

EXPLANATORY MEMORANDUM TO

**THE VETERINARY SURGEONS' QUALIFICATIONS (EUROPEAN
RECOGNITION AND KNOWLEDGE OF LANGUAGE) REGULATIONS 2015**

2015 No. 2073

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

- 2.1 These Regulations amend provisions in the Veterinary Surgeons Act 1966 (c.36) (“the Act”) which implements Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22) (the “MRPQ Directive”) in as much as it relates to the recognition of qualifications in veterinary surgery. The Regulations amend the Act so that it allows the Registrar of the Royal College of Veterinary Surgeons (“RCVS”) to require EU nationals seeking to practise veterinary surgery in the UK to provide evidence of their language competence. The Regulations also provide the RCVS Registrar with the power to prevent someone from being entered in the register until they are able to demonstrate sufficient language ability necessary for their role.
- 2.2 In addition, the Regulations enable veterinary surgeons from the EU to apply for partial access to the veterinary profession in the UK, such that they would be able to practise certain activities following recognition of their veterinary qualification in accordance with the relevant provisions in the European Union (Recognition of Professional Qualifications) Regulations 2015. The Regulations require the RCVS to send alerts to the competent authorities of other Member States when a restriction, prohibition, or sanction has been placed on the activities of a UK registered veterinary surgeon. The Regulations include an appropriate appeal mechanism for all veterinary surgeons where they do not agree with the decisions to send such an alert and where request for partial access is denied.
- 2.3 The Regulations also make technical amendments to some registration defects in the Act; update the incorrect-cross references to the European Communities (Recognition of Professional Qualifications) Regulations 2007 and make consequential amendments to the new provisions in the European Union (Recognition of Professional Qualifications) Regulations 2015. Only those individuals who are fully qualified and registered with the RCVS, the statutory regulator of the veterinary profession, can practise veterinary surgery or use the title veterinary surgeon in the UK.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The MRPQ Directive consolidates previous directives relating to the general systems for the recognition of professional qualifications and sectoral directives. It was adopted by the European Parliament on 7th September 2005 and applies to all regulated professions including the veterinary profession. The Directive provides the framework for EU professionals who wish to exercise their rights to free movement and practise their profession in a State other than their own. Migrants may wish to establish themselves in another State or merely wish to provide services on a temporary and occasional basis and the MRPQ Directive covers both these circumstances.
- 4.2 Although the amendment to the Directive clarifies the requirements on professionals to have the language ability to carry out their role in the host Member State, it also contains new obligations on competent authorities and a leeway for EU professionals. These include administrative co-operation between competent authorities of Member States such as the alert mechanism (paragraph 2.2 refers) and the ability for professionals to request for partial access to their profession in the host Member State. The new amendments also contain an appeal route for professionals where they can contest against the decision of their competent authority.
- 4.3 The European Union (Recognition of Professional Qualifications) Regulations 2015 (drafted by the Department for Business Innovation and Skills) remake the European Communities (Recognition of Professional Qualifications) Regulations 2007 and implement the MRPQ Directive (in part, in relation to the sectoral professions – doctors, midwives, general nurses, dentists, pharmacists, architects and veterinary surgeons). The MRPQ Directive allows for the recognition in the UK of veterinary qualifications obtained in other EEA States and Switzerland. The Act implements further provisions of the MRPQ Directive so far as it is applied to the practise of veterinary surgery in the UK.
- 4.4 These Regulations amend the Act to implement the recent amendments to Article 53 of the MRPQ Directive which clarified that competent authorities must apply language controls where there is evidence of serious and concrete doubt about a professional's ability to practise their profession in a host Member State. The Regulations also clarify language controls for Commonwealth and other foreign nationals. Although English language is one of the registration conditions for non-EU applicants, these arrangements are currently administrative. The new changes will maintain and establish a uniform system of language controls for those applying from overseas.
- 4.5 Furthermore, the Regulations also implement the provisions in Article 67 of the Directive. RCVS will now send alerts to other competent authority when a registered UK veterinary surgeon has been restricted, prohibited, or undergoing sanctions. Veterinary surgeons wishing to practise in the UK can have partial access to certain veterinary activities under the new regime subject to the conditions set by the RCVS. The Regulations include appeal provisions for veterinary surgeons where they wish to contest against the decision of the RCVS.

5. Extent and Territorial Application

- 5.1 This instrument extends to all of the United Kingdom.
- 5.2 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 George Eustice, the Minister of State for Farming, Food, and the Marine Environment, has made the following statement regarding Human Rights:

In my view, the provisions of the Veterinary Surgeons Qualifications (European Recognition and Knowledge of Language) Regulations 2015 are compatible with the Convention rights.

7. Policy Background

What is being done and why

- 7.1 Article 53 of the amended MRPQ Directive 2005/36/EC published in January 2014 clarified the obligations on competent authorities to ensure the language capability of certain professionals and apply controls where necessary. The amended provisions of the Act now provide the RCVS with the power to ask for evidence of language ability as a condition for registration; and to require an applicant to demonstrate such ability when the Registrar has a serious and concrete doubt about an applicant's language proficiency.
- 7.2 Current provisions in the Act do not allow the RCVS Registrar ask for evidence of English language ability when registering EU applicants. This registration arrangement could be considered a disparity since non-EEA applicants have to sit a recognised English test before they are registered and UK nationals have proven their proficiency as they sat their qualifying degrees in English. The new amendment will allow the RCVS Registrar apply language controls when an EU applicant does not demonstrate sufficient language ability necessary to practise their profession. The Act already allows for the recognition in the UK of veterinary qualifications granted in the EU, language controls will be an add-on to the registration process
- 7.3 The new Regulations now provide EU veterinary surgeons with the right to request access to the veterinary profession in the UK under the partial access regime, and the obligation for RCVS to consider that request. The RCVS are now obliged to send alerts to the competent authorities of other Member States when a registered UK vet has been restricted, prohibited or undergoing any form of sanctions. The Regulations ensure that veterinary surgeons are able to appeal against the RCVS sending such an alert, and also appeal if partial access is denied if they wish.
- 7.4 As stated in paragraph 2.3, the Act regulates the use of the title 'veterinary surgeon' and the practise of veterinary surgery in the UK. The changes to the Act are important and necessary to ensure that the UK complies with its European legal obligations and that transposition of the MRPQ Directive is accurate and complete.

8. Consultation Outcome

- 8.1 Following collective Whitehall agreement to consult on the proposals, a 10-week public consultation was carried out between 22 July and 30 September. The consultation was posted on the Government's website and over eighty organisations, businesses, and interested stakeholders were consulted. Devolved Administration in

the UK as well as Federation of Veterinary Establishments in the EU were also consulted. A total of 112 responses were received on the consultation. There was widespread support for the RCVS Registrar to have powers to request evidence of English language ability during the registration process.

- 8.2 No significant objections were raised and respondents' views were that EU applicants should be supported and given time to work on their language and communication skills before being allowed on the register – this view had already been written into the proposals. Many respondents felt that proposed changes would address the current disparity in the registration process and equally give members of the public and animal owners' additional reassurance about the competence of the veterinary profession.

9. Guidance

- 9.1 As an obligation of the MRPQ Directive, it is important that both incoming and outgoing migrants have access to clear guidance on the arrangements in place to enable practise their profession in the UK. The RCVS, as the UK's competent authority has published guidance which provides information for the veterinary profession. RCVS intends to update its guidance to reflect the new registration arrangements for EU applicants. This guidance is available on the RCVS website <http://www.rcvs.org.uk/registration/>.

10. Impact

- 10.1 There is no impact on businesses, charities, or voluntary sector.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared for this instrument.

11. Regulating Small Business

- 11.1 The legislation does not apply to activities that are undertaken by small business because as at registration, veterinary surgeons are treated as members of the public.

12. Monitoring and review

- 12.1 The proposal will be implemented by the RCVS, the statutory regulator for the veterinary profession. RCVS will continue to ensure that veterinary professionals meet the criteria for recognition of their veterinary qualification.
- 12.2 The Department will work with the RCVS to ensure that the requirements of the MRPQ Directive are met as well as monitor and review the scheme periodically to ensure that it remains fit-for-purpose. A report will be published within five years of implementation.

13. Contact

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