
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under powers contained in the European Communities Act 1972, implement, in part, amendments to Directive 2005/36/EC (“the Directive”) made by Directive 2013/55/EU, which concerns the recognition of professional qualifications. The essential aim of the Directive is to facilitate the free movement of persons between Member States of the European Union, by setting out principles and procedures which Member States are to apply in determining the rights of migrants to pursue professions which require professional qualifications. Accordingly, the Regulations make amendments to a number of Acts and statutory instruments in order to reflect the changes made to the Directive.

The Regulations implement most of the changes made to the Directive in relation to a first group of health professions (the “sectoral professions”), namely, doctors (including specialists and general practitioners), pharmacists, dentists (including specialist dentists), nurses responsible for general care and midwives.

The Regulations implement certain provisions of the Directive in relation to a second group of health and social care professions (the “general systems professions”), namely, chiropractors, opticians, osteopaths, pharmacy technicians, social workers, social care managers, professions complementary to dentistry, certain specialist nurses and those professions regulated by the Health and Care Professions Council. These professions are not subject to the system of automatic mutual recognition of qualifications which applies in relation to the sectoral professions.

Those changes to the Directive relating to health and social care professions which are not implemented by these Regulations are implemented by the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059) (“the General Systems Regulations”).

The amendments made by these Regulations apply in relation to the Member States of the European Union and also in relation to the other EEA States, Iceland, Liechtenstein and Norway. They do not apply in relation to Switzerland (see regulation 155).

The main changes to existing legislation made by the Regulations may be summarised as follows. Updating cross-references to the General Systems Regulations

These Regulations make a number of consequential amendments to update references in the legislation to reflect the General Systems Regulations and the revocation of the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781) by those Regulations. For an example, see regulation 6 (which amends the cross-references to the General Systems Regulations in section 14A of the Medical Act 1983).

European professional card

Articles 4a to 4e of the Directive are new provisions which, together with Commission Implementing Regulation 2015/983/EU (“the Implementing Act”), establish a new (and principally electronic) system for the recognition of professional qualifications in certain cases: the European professional card (“EPC”). The sectoral professionals benefitting from the EPC are pharmacists and nurses responsible for general care. These Regulations implement the EPC system in relation to pharmacists and nurses responsible for general care (in particular, see regulations 25, 42 and 69). In addition, physiotherapists benefit from the EPC system under Part 4 of the General Systems Regulations. See Annex I to the Implementing Act for the professions which are currently eligible for the EPC.

Declaration and evidence in relation to first provision of services, etc.

Article 7(2) of the Directive has been amended so that additional documentation or evidence must be submitted by visiting practitioners from relevant European States who are seeking permission to practise in the sectoral professions on a temporary and occasional basis for the first time or

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if there is a material change in their circumstances. That documentation or evidence consists of confirmation of the absence of temporary or final suspensions from practising and the absence of criminal convictions, and a declaration about the applicant's knowledge of English for the purpose of practising: see regulations 10, 24, 41, 53 and 68.

Professional traineeships

Article 55a of the Directive (also see the amendments to article 2(1)) is a new provision setting out requirements as to the recognition of professional traineeships carried out overseas. The affected sectoral professions are doctors and pharmacists. In particular, see regulations 4, 5, 21 and 38 for these requirements. Regulations 9, 18 and 30 amend the relevant sectoral professions legislation by inserting definitions of “professional traineeship”.

Competent authority functions

Article 56(3) of the Directive requires relevant European States to designate competent authorities which will deal with applications and the provision of certificates etc., under the Directive. Regulations 11, 23, 25, 43, 54, 60 and 70 insert and update the functions of the relevant UK competent authorities for the sectoral professions.

Appeals

The Regulations make changes regarding rights of appeal in relation to certain EPC decisions, and decisions to send alerts about practitioners, by the relevant UK competent authority: for example, see regulations 34 to 36 (which amend articles 39 to 41, respectively, of the Pharmacy Order 2010). See regulation 67 of the General Systems Regulations for details of the alert mechanism itself (which applies also in relation to the sectoral profession), and articles 23 to 28 of the Implementing Act.

An impact assessment of the effect that these Regulations will have on the cost of business, the voluntary sector and the public sector is available from the Department of Health on the gov.uk website (www.gov.uk). An Explanatory Memorandum and a transposition note are available with these Regulations on the www.legislation.gov.uk website.

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