

EXPLANATORY MEMORANDUM TO

THE EUROPEAN UNION (RECOGNITION OF PROFESSIONAL QUALIFICATIONS) (AMENDMENT) REGULATIONS 2016

2016 No. 1094

1. Introduction

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

2. Purpose of the instrument

- 2.1 These Regulations amend Part 1 of Schedule 1 to the European Communities (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059) (the “RPQ Regulations”) to add the professions of Level 2 Childcare Worker, Level 3 Early Years Educator and Level 6 Specialist Early Years Graduate as professions regulated by law or public authority, and to specify the Secretary of State as competent authority in relation to those professions.

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 the negative 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 These Regulations amend the RPQ Regulations, which transpose the EU Directive on the recognition of Professional Qualifications (Directive 2005/36/EC as amended by Directive 2013/55/EU) (“the MRPQ Directive”). The MRPQ Directive sets out rules for the recognition of professional qualifications enabling qualified persons from EEA States to gain access to the profession in which they are qualified and to practise the profession under the same condition as professionals in the United Kingdom where those professions are regulated. These regulations are made under powers in section 2(2) of the European Communities Act 1972 (c.68); a transposition note is attached. A full transposition note was attached with the RPQ Regulations and is available on the gov.uk website (www.legislation.gov.uk).
- 4.2 These Regulations add the professions of Level 2 Childcare Worker, Level 3 Early Years Educator and Level 6 Specialist Early Years Graduate to the table of professions regulated by law or public authority in Part 1 of Schedule 1, and specify the Secretary of State as competent authority in relation to those professions.

5. Extent and Territorial Application

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

7. Policy background

What is being done and why

7.1 The MRPQ Directive facilitates the free movement of persons and is intended to allow individual professionals to market their skills in other Member States on a temporary or established basis. In September 2014 the UK government set out staff:child ratios in the Early Years Foundation Stage¹, a statutory framework made under the Childcare Act 2006 (c.21) which all early years providers must observe. It sets out the staff:child ratio requirements for levels 2, 3 and 6 early years workers in England. The Secretary of State considers that, since staff are required to hold specific qualifications in order to count in those ratios, the levels 2, 3 and 6 roles should be considered as regulated professions for the purposes of the MRPQ Directive. These Regulations add levels 2, 3 and 6 job professions to the Schedule and name the Secretary of State as the appropriate competent authority in that respect.

7.2 The UK government set qualification requirements within the Early Years Foundation Stage framework to drive up the quality of early years' provision in England. An individual who wants to count in staff:child ratios must hold either a 'full and relevant' level 2 early years qualification, a level 3 'full and relevant' early years qualification, plus GCSE English and mathematics at grade C or above (if achieved after September 2014), or a specialist early years level 6 qualification. The qualifications which count at each level are set out in guidance available here <https://www.gov.uk/guidance/early-years-qualifications-finder>. Early years settings also employ unqualified staff who can count in staff:child ratios as long as the necessary number of qualified staff are in post.

7.3 Individuals who gained an early years qualification outside England and wish to work within staff:child ratios at level 2, 3 or 6 must hold a qualification that is considered comparable to those required under the Early Years Foundation Stage framework.

7.4 The Secretary of State's role as competent authority builds on the existing arrangements for allowing overseas workers access to these professions. Currently UK NARIC² provides a service for individuals who gained their childcare qualification outside England to check comparability. NARIC provides a summary of the areas in which an individual's qualification meets the qualification requirements for England and the areas where they do not. This information is provided to the National College for Teaching and Leadership (an agency of the Secretary of State for Education) to determine if the individual is able to practise within the relevant staff:child ratio under the Early Years Foundation Stage framework.

Consolidation

7.5 There are no plans to consolidate the RPQ Regulations.

¹ <https://www.gov.uk/early-years-foundation-stage>

² UK NARIC is the designated United Kingdom national agency for the recognition and comparison of international qualifications and skills. It performs this official function on behalf of the UK Government

8. Consultation outcome

- 8.1 There is no statutory obligation to consult on amendments to the RPQ Regulations. They are amended in order to comply with the MRPQ Directive.

9. Guidance

- 9.1 As the Regulations relate to the existing requirements set out in the Early Years Foundation Stage framework, additional guidance is not necessary. The Early Years Foundation Stage framework can be found at <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2> and guidance on early years qualification requirements can be found at <https://www.gov.uk/guidance/early-years-qualifications-finder>
- 9.2 Information on overseas Early Years Qualifications can be found here <https://www.education.gov.uk/eypqd/overseas.shtml>

10. Impact

- 10.1 There is no impact on the businesses, charities or the voluntary sector.
- 10.2 The impact on the public sector is minimal to set up the necessary systems to fulfil the obligations of a competent authority in relation to the regulated professions.
- 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 businesses.

12. Monitoring & review

- 12.1 This instrument does not regulate business and therefore does not require a post implementation review under sections 28-32 of the Small Business Enterprise and Employment Act 2015 (c.26).

13. Contact

- 13.1 Caroline Jones at the Department for Education Telephone: 02073407569 or email: caroline.jones@education.gov.uk can answer any queries regarding the instrument.