
STATUTORY INSTRUMENTS

2002 No. 2934

The European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002

PART 1

INTRODUCTION

Citation and commencement

1.—(1) These Regulations may be cited as the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002

(2) These Regulations shall come into force on 1st January 2003.

Application

2.—(1) Subject to paragraph (2), these Regulations shall apply to the practice of a regulated profession whether in an employed or a self-employed capacity.

(2) These Regulations shall not apply to—

- (a) any profession the mutual recognition of qualifications in which is the subject of one of the directives of the European Community listed in Part 1 of Schedule 1;
- (b) any activity the taking up or pursuit of which in a self-employed capacity or, as the case may be, a self-employed or employed capacity is the subject of one or more of the directives listed in Part 2 of Schedule 1; or
- (c) any profession the taking up or pursuit of which is regulated pursuant to an instrument listed in Part 3 of Schedule 1.

Interpretation

3.—(1) In these Regulations the following words and phrases have the following meanings (and cognate expressions shall be construed accordingly)—

“adaptation period” has the meaning given to it by Regulation 15(2);

“another relevant State” means a relevant State other than the United Kingdom;

“appeal body” means—

- (a) in relation to a profession listed in the first column of the table in paragraph 1 of Schedule 4 to the First General System Regulations, the body, court or person there specified;
- (b) in relation to a profession for the time being listed in Column 1 of the table in Schedule 3 to these Regulations, the body, court or person specified in Column 2 of that table;
- (c) in any other case, a county court or a sheriff court;

“aptitude test” has the meaning given to it by Regulation 15(3);

- “Attestation of Competence” has the meaning given to it by Regulation 7;
- “competent authority” has the meaning given to it by Regulation 8;
- “Certificate” has the meaning given to it by Regulation 6;
- “designated authority” has the meaning given to it by Regulation 9;
- “Diploma” means a First or Second General System Diploma;
- “evidence of professional experience” has the meaning given to it by Regulation 15(1);
- “First General System Diploma” means a Diploma within the meaning of Regulation 2 of First General System Regulations;
- “First General System Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 1991(1);
- “holder” means a person to whom a competent authority has awarded evidence of education and training;
- “home relevant State” means, as the case requires, the relevant State from which a migrant originates or comes or in which the migrant obtained his evidence of education and training or formerly practised;
- “migrant” means a person seeking authorisation to practise pursuant to these Regulations who is a national of a relevant State and whose home relevant State in one or more of the senses of that expression, is not the United Kingdom;
- “practice”, in relation to any regulated professional activity or regulated profession within the meaning of Regulation 4 includes—
- (a) the taking up or pursuit of that activity or that profession in a relevant State, whether in a self-employed capacity or as an employed person; and
 - (b) in the course of such pursuit—
 - (i) the use of a professional title or designatory letters; and
 - (ii) the enjoyment of the benefit of the status associated with membership of the profession;
- “profession” includes occupation and trade;
- “professional association” means an association or organisation, recognised in special form by a relevant State, the purpose of which is, in particular, to promote and maintain a high standard in the professional field with which it is concerned and which, to that end—
- (a) prescribes, and enforces respect within its membership for, rules of professional conduct; and
 - (b) awards evidence of education and training to its members; and
 - (c) confers on its members the right to use one or more professional titles, or designatory letters or to benefit from a status corresponding to that education and training;
- “regulated education and training” has the meaning given to it by Regulation 4(3);
- “regulated profession” has the meaning given to it by Regulation 4(1);
- “regulated professional activity” has the meaning given to it in Regulation 4(2);
- “relevant State” means a member State, Iceland, Norway, Liechtenstein or Switzerland;
- “Second General System Diploma” has the meaning given to it by Regulation 5;
- “third country” means a country other than a relevant State.

(2) A reference in these Regulations to “the United Kingdom” shall, as the context requires, include a reference to any of the following: England and Wales, Scotland, and Northern Ireland.

(3) In these Regulations, the expressions “UK Diploma”, “UK Certificate”, “UK Attestation of Competence”, “UK attestation of general education” and “UK qualification” mean, respectively, the Diploma, Certificate, Attestation of Competence, attestation of general education or qualification to possession of which the practice of the regulated profession in question is subject in the United Kingdom.

(4) For the purposes of these Regulations, an association or organisation established in the United Kingdom shall be taken to have been recognised in special form if the mode of its establishment was incorporation by Royal Charter.

Regulated Profession, Regulated Professional Activity and Regulated Education and Training

4.—(1) For the purposes of these Regulations, a profession is regulated—

(a) in the United Kingdom—

(i) if it is, or a professional title or designatory letters associated with the pursuit of the profession is or are, listed in Schedule 1 to the First General System Regulations or in Schedule 2 to these Regulations; or

(ii) at any time when it is not so listed, if and in so far as any professional activity or range of such activities which constitutes the profession is regulated within the meaning of paragraph (2);

(b) in another relevant State if and in so far as any professional activity or range of such activities which constitutes the profession is regulated within the meaning of paragraph (2).

(2) For the purposes of these Regulations, a professional activity is regulated in a relevant State if and in so far as—

(a) the practice, or any mode of practice, of that activity in that relevant State is subject, directly or indirectly, by virtue of laws, regulations or administrative provisions, to the possession of evidence of education and training or an Attestation of Competence; or

(b) it is practised under a professional title or designatory letters the use of which is reserved to holders of evidence of education and training or an Attestation of Competence governed by laws, regulations or administrative provisions; or

(c) it relates to health and the remuneration or reimbursement received for the practice of the activity in the relevant State in question is, by virtue of national arrangements for the administration of social security, subject to the possession of evidence of education and training or an Attestation of Competence; or

(d) it is practised by members of a professional association.

(3) For the purposes of these Regulations, education and training is regulated if—

(a) it is listed in Schedule 5; or

(b) it is specifically geared to the pursuit of a given profession in a relevant State, and comprises a course or courses complemented where appropriate by professional training or probationary or professional practice the structure and level of which are determined by the laws, regulations or administrative provisions of that relevant State or which are monitored or approved by the competent authority.

Definition of “Second General System Diploma”

5.—(1) In these Regulations, “Second General System Diploma” means any evidence of education and training received in accordance with paragraph (3), or any set of such evidence, which has been awarded by a competent authority in a relevant State and which shows that the holder has successfully completed either—

- (a) a post-secondary course such as is described in paragraph (4) and the professional training which may be required in addition to that course; or
- (b) one of the courses listed in Schedule 6

and has the professional qualifications required for the practice of a regulated profession in that relevant State.

(2) Any evidence of education and training, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which—

- (a) shows that the holder has successfully completed education and training received in the Community and recognised by a competent authority in that relevant State as being at a level equivalent to education and training satisfying paragraph (1); and
- (b) confers the same rights in respect of the practice of the regulated profession in that relevant State

shall, for the purposes of these Regulations, be treated in the same way as a Second General System Diploma.

(3) The education and training referred to in paragraph (1) will have been received wholly or mainly—

- (a) in the Community; or
 - (b) outside the Community at teaching establishments which provide education and training in accordance with the laws, regulations or administrative provisions of a relevant State; or
 - (c) if neither (a) nor (b) is the case, in a third country, provided that the holder has at least three years' professional experience certified by a relevant State which recognised evidence of education and training from that country.
- (4) A post-secondary course of the kind referred to in paragraph (1) will have been one—
- (a) which, if pursued full-time, was of at least one year's duration or, if pursued part-time, was of equivalent duration; and
 - (b) 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,

but will not have been a course of three or more years' duration if pursued full-time, or of an equivalent duration if pursued part-time, completed at a university or establishment of higher education or another establishment of similar level.

Definition of “Certificate”

6.—(1) In these Regulations, “Certificate” means any evidence of education and training received in accordance with paragraph (3), or any set of such evidence, which has been awarded by a competent authority in a relevant State and which shows that the holder either—

- (a) followed a secondary course of a technical or vocational nature of a kind which renders it unnecessary to complete any further course of education and training of the kind described in paragraph (4) or probationary or professional practice; or
- (b) in any other case, after having followed a secondary course has completed either—

- (i) a course of education and training such as is described in paragraph (4) and, where appropriate, the probationary or professional practice which may be required in addition to that course, or
- (ii) the probationary or professional practice required in addition to the secondary course;

and that the holder has the professional qualifications required for the practice of a regulated profession in that relevant State.

(2) The education and training referred to in paragraph (1) will have been received wholly or mainly—

- (a) in the Community; or
- (b) outside the Community at teaching establishments which provide education and training in accordance with the laws, regulations or administrative provisions of a relevant State, or otherwise; or
- (c) in a third country, provided that the holder has at least two years' professional experience certified by a relevant State which recognised evidence of education and training from that country.

(3) A course of education and training of the kind referred to in paragraph (1)(a) or (1)(b) will have been provided either—

- (a) at an educational or training establishment; or
- (b) on the job; or
- (c) in a combination of (a) and (b)

but will not be a post-secondary course of the kind evidenced by a First or a Second General System Diploma.

(4) Any evidence of education and training, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which—

- (a) shows that the holder has successfully completed education and training received in the Community and recognised by a competent authority in that relevant State as being of equivalent level to education and training satisfying paragraph (1); and
- (b) confers the same rights in respect of the practice of the regulated profession in that relevant State

shall, for the purposes of these Regulations, be treated in the same way as a Certificate.

Definition of “Attestation of Competence”

7.—(1) In these Regulations, an “Attestation of Competence” means any evidence of qualifications either—

- (a) attesting to education and training not forming part of a set constituting a First General System Diploma or a Second General System Diploma or a Certificate; or
- (b) awarded following an assessment of the holder by reference to the personal qualities, aptitudes or knowledge which a competent authority considers essential for the pursuit of a profession, without proof of prior education and training being required.

PART 2

ADMINISTRATION

Competent Authority

- 8.—(1) For the purposes of these Regulations, the expression “competent authority” means—
- (a) in relation to—
 - (i) any document (including any evidence of education and training or any set of such evidence), statement, attestation or notification,
 - (ii) subject to sub-paragraph (b), any function of deciding, recognising, monitoring or approving,the authority, body or person in the relevant State in question authorised to issue, make, award or give such document, statement, attestation or notification or invested with such function under the laws, regulations or administrative provisions of that State; and
 - (b) in relation to any profession which is regulated in a relevant State, the person, body or authority in that relevant State invested by any enactment, rule of law, charter, by-law or other rule (however described) governing the conduct of the profession or activity, with the function—
 - (i) of authorising the practice of the profession in that State, or
 - (ii) if no person, body or authority has that function in the case in question, of conferring membership of the professional association for the professional field concerned or the right to the use of certain professional titles or designatory letters or other benefits of such membership.

(2) For the purposes of paragraph (1), if in a relevant State a profession is regulated by different persons, bodies or authorities for different parts of the relevant State, the competent authority for that relevant State shall be the person, body or authority which has the function in question for the part of the relevant State in respect of which the identity of the competent authority falls to be determined.

Designated Authorities

- 9.—(1) For the purposes of these Regulations, the following shall be regarded as the designated authorities for their profession—
- (a) in respect of any profession for the time being listed in Schedule 1 to the First General System Regulations, the person, body or authority there specified as the designated authority in relation to that profession;
 - (b) in respect of any profession for the time being listed in Part 1 of Schedule 2 to these Regulations, the person, body or authority there specified as the designated authority in relation to that profession or activity;
 - (c) in respect of any professional title or designatory letters listed for the time being in Part 2 of Schedule 2 to these Regulations, the person, body or authority there specified as the designated authority in relation to that title or those letters.
- (2) If at any time a profession is regulated within the United Kingdom, or a part of it, but is not listed in one of the ways mentioned in paragraph (1), the designated authority in respect of that profession or, as the case may be, professional activity shall be the competent authority, determined in accordance with Regulation 8(1)(b).

Designated authorities – functions

10.—(1) Without prejudice to its other powers and functions, a designated authority shall have the functions of considering applications and granting authorisations under these Regulations.

(2) If, for purposes other than those of these Regulations, a designated authority has as its function or one of its functions the conferring of a professional title or designatory letters then for the purposes of paragraph (1) as it affects that body the function of authorising the practice of a profession or activity shall include the authorising of the use of that professional title or those designatory letters.

(3) Nothing in this Regulation shall be taken to require a designated authority to authorise the practice of any profession save in so far as it has that function in relation to the holders of the relevant UK qualification.

PART 3

RIGHT TO PRACTISE IN THE UNITED KINGDOM

Right to practise – Diploma

11.—(1) This Regulation applies in any case in which the practice of a profession in the United Kingdom is subject to the possession of a Diploma one of the conditions for the issue of which is the completion of a post-secondary course of four years' duration or less.

(2) Subject to paragraph (3), the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required UK Diploma—

- (a) in the case in which the UK Diploma is a First General System Diploma, if any one of paragraphs 1(a) or (b) or 2 of Schedule 4 applies;
- (b) in the case in which the UK Diploma is a Second General System Diploma, if any one of paragraphs 1 to 3 of that Schedule applies.

(3) The requirement in paragraph (2) to authorise on the same conditions as those which apply to a holder of the required UK Diploma shall not restrict the right of the designated authority, in the circumstances and on the conditions laid down in Part 4 of these Regulations to require a migrant—

- (a) to provide evidence of professional experience; or
- (b) successfully to complete an adaptation period; or
- (c) to take and pass an aptitude test.

Right to practise – Certificate

12.—(1) This Regulation applies in any case in which the practice of a profession in the United Kingdom is subject to the possession of a Certificate.

(2) Subject to paragraph (3), the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required UK Certificate if any one of paragraphs 1, 4 or 5 of Schedule 4 applies.

(3) The requirement in paragraph (2) to authorise on the same conditions as those which apply to a holder of the required UK Certificate shall not restrict the right of the designated authority, in the circumstances and on the conditions laid down in Part 4 of these Regulations, to require a migrant—

- (a) successfully to complete an adaptation period; or
- (b) to take and pass an aptitude test.

Right to practise – Attestation of Competence

13.—(1) This Regulation applies in any case in which the practice of a profession in the United Kingdom is subject to the possession of an Attestation of Competence.

(2) Subject to paragraph (3), the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required UK Attestation of Competence—

- (a) if the migrant holds at least the Attestation of Competence required in another relevant State for the practice of the same profession; or
- (b) if the applicant provides proof of other qualifications obtained in other relevant States.

(3) The designated authority shall be entitled to satisfy itself that the Attestation of Competence or, as the case may be, other qualifications presented by the migrant are the equivalent of the UK Attestation of Competence in terms of the guarantees (in particular in the matter of health, safety, environmental protection and consumer protection) required of those practising the profession in the United Kingdom by laws, regulations or administrative provisions.

(4) In any case in which the designated authority cannot reasonably satisfy itself in the terms of paragraph (3) as to the equivalence of the Attestation of Competence presented by the migrant, the migrant shall be required to comply with such domestic requirements for authorisation as have been laid down for the practice of the profession.

Right to practise – Other cases

14.—(1) This Regulation applies in any case in which the practice of a profession is subject only to the possession of evidence of education attesting to general education at primary or secondary school level.

(2) The designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of evidence of the required UK attestation of general education if the migrant possesses formal qualifications of the corresponding level or higher satisfying the requirements of paragraph (3).

(3) The formal qualifications will satisfy the requirements of this paragraph if they have been awarded by the competent authority in another relevant State.

PART 4

REQUIREMENTS OF EVIDENCE OF PROFESSIONAL EXPERIENCE, ADAPTATION PERIODS AND APTITUDE TESTS

Meaning of evidence of professional experience, adaptation period and aptitude test

15.—(1) Evidence of professional experience means evidence of the actual and lawful pursuit in a relevant State of a profession corresponding to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom.

(2) An adaptation period means, in relation to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom, a period of pursuit of the profession under the supervision of a qualified member of the profession, with or without the undertaking of further education and training with the aim of assessing the ability of the migrant to pursue that profession in the United Kingdom.

(3) An aptitude test means, in relation to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom, a test of the migrant's professional knowledge conducted by the designated authority for the profession with the aim of assessing the ability of the migrant to pursue that profession in the United Kingdom.

Choice of evidence of professional experience, adaptation period or aptitude test

16.—(1) A designated authority may not in any case in which a migrant had made application to take up or pursue a regulated profession require the migrant to comply with more than one of the following requirements, that is to say—

- (a) to produce evidence of professional experience;
- (b) successfully to complete an adaptation period;
- (c) to take and pass an aptitude test.

(2) A designated authority wishing to apply to a migrant a requirement either to complete an adaptation period or to take an aptitude test shall, except in a case provided for as an exception by Regulation 6(2) of, and Schedule 3 to, the First General System Regulations or by paragraph (3), afford the migrant the right to choose between them.

(3) In the case of a profession listed in the first column of the table in Schedule 7 the requirement shall be as specified in the second column of that table.

Circumstances in which evidence of professional experience may be required

17.—(1) Evidence of professional experience may only be required in a case where the duration of education and training adduced by a migrant in support of his application is at least one year less than the duration required of holders of UK Diplomas.

(2) Despite paragraph (1) evidence of professional experience may not be required in a case in which the migrant holds either—

- (a) a First General System Diploma; or
- (b) a Second General System Diploma evidencing education and training of the kind described in Regulation 5(1)(a)

if the UK Diploma or evidence of education and training required by the designated authority attests to one of the courses of education and training listed in Part 2 of Schedule 6.

Conditions affecting the requirement of evidence of professional experience

18.—(1) The period of professional experience evidence of which may be required of a migrant shall not exceed the shorter of—

- (a) in a case in which the shortfall between the duration of the education and training required by the designated authority and the duration of the education and training evidence of which has been adduced by the migrant (“the shortfall”) relates to a post-secondary course, or to a period of probationary practice carried out under the supervision of a qualified member of the profession and ending with an examination, or to both, a period twice the duration of the shortfall;
- (b) in a case in which the shortfall relates to practice of the profession acquired with the assistance of a qualified member of the profession, a period equal to the shortfall;
- (c) four years.

(2) For the purposes of paragraph (1), in a case in which the UK Diploma evidences a course of education and training listed in Part 2 of Schedule 6 and in which the migrant's claim to recognition rests on paragraph 9 of Schedule 4, the duration of the education and training of which evidence

has adduced by the migrant shall be taken to be the duration of the post-secondary education and training of which it is the recognised equivalent.

(3) In a case in which, during the previous ten years, the migrant has pursued the profession either full-time for at least two years or part-time for an equivalent period in another relevant State which does not regulate the profession, the period of professional experience of which evidence may be required under paragraph (1) shall be reduced by the duration of that pursuit.

Circumstances in which an adaptation period or an aptitude test may be required – Diploma

19.—(1) In a case falling within Regulation 11 other than one in which a migrant's claim for recognition depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 4, a designated authority may only (and subject to paragraph (2)) apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either—

- (a) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom are broadly comparable, the education and training relating to theoretical, or practical, or theoretical and practical matters received by the migrant differs substantially in coverage from that which is evidenced by the required UK Diploma; or
- (b) in a case in which the migrant meets the requirements of paragraph 1(a) or (b) of Schedule 4, one or more of the regulated professional activities which form the profession in the United Kingdom is or are not included in the regulated profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters evidenced by the Diploma held by the migrant on the one hand and the required UK Diploma on the other; or
- (c) in any other case, one or more of the regulated professional activities which form the profession in the United Kingdom is or are not included in the profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters of which evidence is held by the migrant on the one hand and evidenced by the required UK Diploma on the other.

(2) If a designated authority intends to require the migrant to complete an adaptation period or take an aptitude test in circumstances mentioned in paragraph (1) it must first examine whether the knowledge acquired by the migrant in the course of his professional experience is such that it fully or partly covers the substantial differences referred to in—

- (a) paragraph 1(a) or 1(b); or
- (b) paragraph 1(a) or 1(c),

as the case may be.

(3) In a case falling within Regulation 11 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 4, a designated authority may (subject to paragraph (4)) apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

(4) If a designated authority intends to require the migrant to complete an adaptation period or take an aptitude test in circumstances mentioned in paragraph (3) it must first examine whether the knowledge acquired by the migrant in the course of his professional experience is such that it fully or partly covers the substantial difference between the Second General System Diploma and the Certificate.

Circumstances in which an adaptation period or an aptitude test may be required – Certificate

20.—(1) In a case falling within Regulation 12 and in which a migrant’s claim to recognition of his right to practice depends upon his ability to meet the requirements of paragraph 1 or 4 of Schedule 4, a designated authority may only (and subject to paragraph (2)) apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either—

- (a) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom are broadly comparable, the education and training which the migrant received in relation to theoretical or practical matters, taken as a whole, differs substantially in coverage from that which is evidenced by the UK Certificate; or
- (b) the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom differ and those differences are reflected in substantial differences in education and training in relation to theoretical or practical matters.

(2) If a designated authority intends to require the migrant to complete an adaptation period or take an aptitude test it must first examine whether the knowledge acquired by the migrant in the course of his professional experience is such that it fully or partly covers the substantial difference referred to in paragraph (1).

(3) In a case falling within Regulation 12 and in which a migrant’s claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 5 of Schedule 4, a designated authority may apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

Conditions affecting the requirement to complete an adaptation period

21.—(1) The adaptation period shall be the subject of an assessment.

(2) Subject to paragraph (3), the designated authority shall lay down the detailed rules governing—

- (a) the length of the period; and
- (b) the form of the assessment

and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall notify the migrant of the rules in advance of the migrant’s exercise of that choice.

(3) The adaptation period shall not exceed—

- (a) 3 years in duration, in a case falling within Regulation 19; or
- (b) 2 years in duration, in a case falling within Regulation 20.

Conditions affecting the requirement to take an aptitude test

22.—(1) A designated authority wishing to apply to a migrant the requirement to take an aptitude test shall 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 by a holder of a UK Diploma or, as the case may be, UK Certificate and the education and training received by the migrant have not been covered by the education and training evidence of which has been produced by the migrant and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall notify the migrant of the contents of the list in advance of his exercise of his choice.

(2) The subjects listed pursuant to paragraph (1) may cover theoretical knowledge and practical skills required for the pursuit of the profession.

(3) Subject to paragraphs (4) and (5), the detailed application of the aptitude test shall be determined by the designated authority and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall be notified to the migrant in advance of his exercise of his choice.

(4) The aptitude test shall only consist of—

- (a) subjects selected from the list drawn up pursuant to paragraph (1), knowledge of which is essential to the pursuit of the profession within the United Kingdom; and
- (b) if required, a test of the migrant's knowledge of the professional rules applicable to the activities in question in the United Kingdom.

(5) In setting the aptitude test the designated authority shall take appropriate account of the migrant's status as a qualified professional in the home relevant State.

PART 5

ANCILLARY PROVISIONS

Evidence from competent authorities

23.—(1) A designated authority shall, in connection with any matter requiring to be established pursuant to Parts 3 and 4, accept as sufficient evidence thereof the documents duly issued by a competent authority of the appropriate relevant State for the purpose of attesting such matters.

(2) A designated authority which—

- (a) requires of an applicant for authorisation to practice proof that he is of good character or repute, or that he has not been declared or adjudged bankrupt, or had a bankruptcy or similar order made against him or in relation to his estate; or
- (b) suspends or prohibits practice in the event of serious professional misconduct or the commission of a criminal offence;

shall, in respect of a migrant, accept as sufficient evidence in relation to the foregoing the documents duly issued by the competent authorities of the home relevant State showing, in the case of (a), that the relevant conditions are met, or, in the case of (b), that the migrant has committed no such misconduct or offence.

(3) In any case in which the competent authorities do not issue such documents as may be required under paragraph (2), the designated authority shall, subject to paragraph (4), accept in the place of such documents a declaration or oath or solemn declaration to the required effect, made by the migrant before a competent judicial or administrative authority or (where appropriate) a notary or duly qualified professional body of the home relevant State.

(4) A declaration for the purposes of paragraph (3) shall only be required to be accepted if it is accompanied by written confirmation of its authenticity issued by the authority, notary or body.

(5) A designated authority which requires of persons wishing to practise a statement of physical or mental health, shall accept as sufficient evidence thereof the documents required for such a purpose in the home relevant State.

(6) In any case in which the competent authority of the migrant's home relevant State does not impose the requirement referred to in paragraph (5), the designated authority shall accept a statement issued by a competent authority there which corresponds to the statement issued for that purpose in the United Kingdom.

(7) A designated authority may require any document, statement or certificate referred to in paragraph (2), (3), (5) or (6) to be presented no more than three months after the date of its issue.

(8) Where a designated authority requires applicants to take an oath or make a solemn declaration, the form of which is such that it cannot be taken or made by nationals of another relevant State, it shall ensure that an appropriate equivalent form of oath or declaration is available for those nationals.

(9) A designated authority which requires of an applicant for authorisation to practise proof of financial standing shall, in respect of a migrant, regard certificates issued by banks in the home relevant State as equivalent to those issued by banks in the United Kingdom.

(10) Subject to paragraph (11) a designated authority which requires proof that an applicant for authorisation to practise is insured against the financial risks arising from the applicant's professional liability shall in respect of a migrant accept certificates issued by insurance undertakings of other relevant States as equivalent to those issued by insurance undertakings in the United Kingdom.

(11) Any certificate referred to in paragraph (10) shall state that the insurer has complied with the laws and regulations in force in the United Kingdom regarding the terms and extent of cover and shall be presented no more than three months after the date of issue.

Use of professional title

24.—(1) A migrant who has been granted authorisation to practise a regulated profession pursuant to these Regulations shall have the right to use—

- (a) the professional title and designatory letters applicable to that profession in the United Kingdom; and
- (b) the lawful academic title (and where appropriate the abbreviation thereof) acquired by him in the relevant State in which he qualified and in the language of that State.

(2) Where the migrant makes use of the possibility provided for in sub-paragraph (1)(b), the designated authority may require that the title shall be followed by the name and location of the establishment or examining board which awarded it.

(3) Where the migrant makes use of the possibility provided for in sub-paragraph (1)(a) of this Regulation, and either—

- (a) the professional title or designatory letters appear in Part 2 of Schedule 1 to the First General System Regulations or Part 2 of Schedule 2 to these Regulations; or
- (b) they do not so appear but the profession is regulated by a professional association

he shall only be entitled to use the professional title or designatory letters on proof of membership of the professional association.

(4) Where membership of a professional association is subject to any qualification requirements, such requirements may be applied to a migrant whose evidence of education and training satisfies the relevant provisions of Schedule 4 only so far as they are consistent with the provisions of these Regulations.

Decisions of designated authorities and appeals

25.—(1) The designated authority to which a migrant applies for authorisation to practise shall consider the migrant's application as soon as is reasonably practicable, and shall notify him of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

(2) The migrant may appeal—

- (a) against the decision of the designated authority referred to in paragraph (1); or
- (b) in a case in which the period of four months mentioned in paragraph (1) has expired without the notification referred to, in respect of the failure of such authority to make a decision

to the appeal body for the profession provided that such appeal is lodged within three months of the notification to him of the designated authority's decision, or of the expiry, without a decision being notified to him, of the period laid down in paragraph (1) or thereafter with leave of the appeal body.

(3) A migrant who has a right of appeal under this Regulation and, in respect of the same issue, a right of appeal under any law, regulation or administrative provision or, as the case may be, rules governing a profession or professional association may not exercise the two rights separately but may take advantage of whichever right of appeal is, in any respect, the more favourable to him.

(4) The appeal body for a profession may, for the purpose of determining any appeal under these Regulations against the decision of a designated authority—

- (a) give any authorisation to practise and impose any condition which the designated authority could give or impose in relation to that profession; or
- (b) remit the matter to the designated authority with such directions as the appeal body sees fit.

(5) Without prejudice to any powers of the Court of Session in Scotland to regulate the proceedings of itself and those of the sheriff courts but subject always to paragraph (6), an appeal body in England and Wales or Northern Ireland may make rules of procedure governing the hearing and determination of any appeal under these Regulations against the decision of a designated authority. Such rules may make different provision for different cases.

(6) In the case of a migrant exercising the composite right described in paragraph (3), the rules of procedure governing the hearing and determination of the appeal shall apply subject to any modification necessary to give effect to the more favourable provision.

Information from designated authorities and competent authorities

26.—(1) Designated authorities shall provide the Secretary of State with such information (including statistical information) as he may require concerning applications made and decisions taken under these Regulations.

(2) Any authority, body or person who is the competent authority in respect of information or evidence sought by the holder of a UK qualification in support of his application to practise a profession in another relevant State which regulates that profession shall, as soon as is reasonably practicable following the request of the holder, produce to the holder such information and evidence as the holder reasonably requires to that end.

Revocation

27. The following Regulations are hereby revoked—

- (a) the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 1996⁽²⁾;
- (b) the European Communities (Recognition of Professional Qualifications) (Second General System) (Amendment) Regulations 1999⁽³⁾; and
- (c) the European Communities (Recognition of Professional Qualifications) (Second General System) (Amendment) Regulations 2001⁽⁴⁾.

(2) S.I. 1996/2374.

(3) S.I. 1999/67.

(4) S.I. 2001/200.

26th November 2002

Margaret Hodge
Minister of State,
Department for Education and Skills