
STATUTORY INSTRUMENTS

2007 No. 2781

The European Communities (Recognition of Professional Qualifications) Regulations 2007

PART 1

GENERAL PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the European Communities (Recognition of Professional Qualifications) Regulations 2007.

(2) These Regulations come into force on 19th October 2007.

Interpretation

2.—(1) In these Regulations the following words and phrases have the following meanings—

“adaptation period” has the meaning given to it by regulation 23;

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

“applicant” has the meaning given to it by regulations 6(3) and (4);

“aptitude test” has the meaning given to it by regulation 24;

“competent authority”—

(a) in relation to the United Kingdom, has the meaning given by regulation 4(1) to (3),

(b) in relation to another relevant European State, has the meaning given by regulation 4(4), and unless the context otherwise requires, a reference to a competent authority is a reference to a competent authority in relation to the United Kingdom;

“the Directive” means Directive [2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications⁽¹⁾;

“enactment” includes—

(a) an enactment contained in subordinate legislation within the meaning given by subsection (1) of section 21 of the Interpretation Act 1978⁽²⁾ 1978, except that the definition of that term in that subsection shall have effect as if “Act” included Northern Ireland legislation, and

(b) an enactment contained in an Act of the Scottish Parliament or in an instrument made under such an Act;

“evidence of formal qualifications” has the meaning given to it in regulation 7(2);

(1) OJ No L 255, 30.9.2005, p.22, as amended by Council Directive [2006/100/EC](#) of 20th November 2006, OJ No L 363, 20.12.2006, p.141.

(2) [1978 c. 30](#).

“home State” means the relevant European State from which an applicant originates or comes or in which the applicant obtained his professional qualifications or in which he lawfully practised;

“holder” means a person to whom a competent authority of a relevant European State has awarded professional qualifications;

“host State” means the relevant European State to which an applicant applies for access to or pursuit of a regulated profession in its territory, which is contingent on possession of specific professional qualifications;

“manager of an undertaking” means any person who in any undertaking in the occupational field in question has pursued an activity:

- (a) as a manager of an undertaking or a manager of a branch of an undertaking;
- (b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking;

“native applicant” means a person whose qualifications were obtained wholly within the United Kingdom applying to a competent authority for authorisation to practise for the purposes of access to or pursuit of a regulated profession or any professional lawfully pursuing that profession in the United Kingdom;

“practice” in relation to any regulated profession includes—

- (a) the taking up or pursuit of that profession in a relevant European State, whether in a self employed capacity or as an employed person; and
- (b) in the course of such pursuit—
 - (i) the right to use 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 or trade;

“professional association” means an association or organisation recognised in a special form, 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 awards professional qualifications to its members; and
- (b) 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 professional qualification;

“professional experience” means the actual and lawful pursuit of the profession concerned;

“professional qualifications” has the meaning given to it in regulation 7(1);

“professional rules” mean rules of a professional, statutory or administrative nature which are directly linked to professional qualifications, such as the definition of the profession, the use of titles, and serious professional malpractice which is directly and specifically linked to consumer protection and safety, as well as disciplinary provisions which are applicable to professionals who pursue the same profession;

“regulated education and training” has the meaning given to it in regulation 6(2);

“regulated profession” has the meaning given to it by regulation 6(1);

“relevant European State” means an EEA State or Switzerland;

“same profession” means the profession for which the applicant is qualified in his home State if the activities covered are comparable;

“sectoral professions” means one or more of the following regulated professions namely that of doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect;

“third country” means a country other than a relevant European State.

(2) References in these Regulations to the Directive or a provision of the Directive are references to the Directive or a provision of the Directive as amended from time to time.

(3) A reference in these Regulations to the United Kingdom shall, as the context requires, be taken to include a reference to any one or more of: England, Wales, Scotland, and Northern Ireland.

(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.

Application

3.—(1) Subject to paragraphs (3) to (10), the provisions listed in paragraph (2) apply to applicants.

(2) Those provisions are—

- (a) regulation 5(1) to (5);
- (b) Part 2 (Freedom to provide services on a temporary basis);
- (c) Chapters 1, 2 and 4 of Part 3 (Freedom of establishment);
- (d) regulation 36; and
- (e) regulation 37.

(3) The provisions listed in paragraph (2) apply to the sectoral professions only as mentioned in paragraph (4).

(4) The following provisions apply to the sectoral professions in cases within any of subparagraphs (a) to (e) of paragraph (9) where the applicant for specific and exceptional reasons does not satisfy the requirements for automatic recognition or recognition on the basis of acquired rights, namely—

- (a) except for the profession of architect, regulations 9(1) and (2) and 14 to 16;
- (b) Chapter 1 of Part 3 except regulation 27;
- (c) Chapter 4 of Part 3 except regulation 34(3); and
- (d) regulation 37.

(5) Chapter 2 of Part 3 applies only to professions listed in Part 3 of Schedule 1.

(6) The provisions listed in paragraph (2) apply to the professions listed in Part 3 of Schedule 1 only as mentioned in paragraphs (5), (7) and (8).

(7) The following provisions apply to professions listed in Part 3 of Schedule 1—

- (a) regulation 5(1) to (5);
- (b) Part 2;
- (c) Chapter 4 of Part 3;
- (d) regulation 36; and
- (e) regulation 37.

(8) In addition, Chapter 1 of Part 3 applies to professions listed in Part 3 of Schedule 1 in cases where the applicant for specific and exceptional reasons does not meet the requirements set out in Schedule 4.

(9) The cases mentioned in paragraph (4) are—

- (a) for applicants who are doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects when the applicant does not meet the requirements of effective and lawful professional practice required in Articles 23, 27, 33, 37, 39, 43 and 49 of the Directive (acquired rights),
- (b) for applicants who are architects, when the applicant holds evidence of formal qualifications not listed in Annex V point 5.7 of the Directive,
- (c) without prejudice to the provisions of Articles 21(1), 23 and 27 of the Directive (automatic recognition and acquired rights), for applicants who are doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects holding evidence of formal qualifications as a specialist, which must follow the training leading to the possession of a title listed in Annex V of the Directive, points 5.1.1, 5.2.2, 5.3.2, 5.4.2, 5.5.2, 5.6.2, and 5.7.1 of the Directive, solely for the purposes of the recognition of the relevant speciality,
- (d) for applicants who are specialised nurses without training as a general care nurse, where, in the United Kingdom, the relevant professional activities are pursued by nurses responsible for general care, specialised nurses without training as general care nurses 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, and
- (e) for applicants whose qualifications were obtained in a third country and, if wishing to access and pursue a sectoral profession in the United Kingdom on a permanent basis—
 - (i) who have, in the relevant sectoral profession, three years' professional experience on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the applicant to pursue the profession on its territory in accordance with its rules; and
 - (ii) whose three years' professional experience is certified by that State.

(10) Part 2 does not apply—

- (a) to any of the professions listed in Part 2 of Schedule 1; and
- (b) to the profession of solicitor in England and Wales, Northern Ireland or Scotland or the profession of barrister in England and Wales or Northern Ireland, or the profession of advocate in Scotland where the European Communities (Services of Lawyers) Order 1978(3) applies.

(11) These Regulations do not apply to the profession of company auditor as defined in section 24(2) of the Companies Act 1989(4) and Article 27(2) of the Companies (Northern Ireland) Order 1990(5).

Competent authorities

4.—(1) In the case of a regulated profession listed in any of Parts 1 to 3 of Schedule 1, the competent authority in the United Kingdom for the purposes of the Directive so far as relating to that profession is the body or authority specified in relation to that profession in that Part of that Schedule.

(3) S.I. 1978/1910, amended by S.I. 1980/1964, 1981/228, 1991/2684, 2004/1117 and 2007/259, S.S.I. 2004/186 and 2007/359.

(4) 1989 c.40

(5) S.I. 1990/593 (N.I.5)

(2) In the case of a regulated profession that is regulated in the United Kingdom but is not listed in Schedule 1, the competent authority in the United Kingdom for the purposes of the Directive so far as relating to that profession is the governing body of that profession in the United Kingdom.

(3) In these Regulations “competent authority”, in relation to a profession listed in Part 4 of Schedule 1, means the body or authority specified in relation to that profession in that Part of that Schedule.

(4) For the purposes of these Regulations, the competent authority in another relevant European State in relation to—

- (a) any document, certificate, attestation of competence, diploma or qualification,
- (b) any period of professional experience, or
- (c) any application, action or decision,

is the authority, body or person who under laws, regulations or administrative provisions is authorised in that State to issue, award or recognise the document or information concerned or (as the case may be) to certify the period of professional experience, to receive the application or to take the action or decision.

Functions of competent authorities in the United Kingdom

5.—(1) Without prejudice to its other powers and functions, a competent authority shall have the function of receiving and considering applications by applicants and taking the actions and decisions referred to in these Regulations.

(2) Competent authorities shall—

- (a) work in close collaboration with competent authorities of other relevant European States;
- (b) provide assistance to competent authorities of other relevant European States in order to facilitate application of these Regulations; and
- (c) ensure the confidentiality of the information which they exchange.

(3) Competent authorities shall exchange information with competent authorities of other relevant European States regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under these Regulations.

(4) Pursuant to paragraph (3), a competent authority receiving information from a competent authority of another relevant European State on disciplinary action or criminal sanctions, shall:

- (a) examine the veracity of the circumstances,
- (b) decide on the nature and scope of the investigations which need to be carried out, and
- (c) inform that authority of the conclusions which it draws from the information available to it.

(5) If the holder of a qualification awarded by a competent authority requests, either in writing or by electronic means, that authority to provide him with any information or evidence as listed in Annex VII of the Directive in support of his application to practise a profession in another relevant European State which regulates that profession, the competent authority shall produce that information or evidence to the holder within the time limits set down in that Annex or, if there are no time limits, as soon as is reasonably practicable following the request of the holder.

(6) Competent authorities shall also act as contact points for their regulated professions.

(7) Contact points shall in addition to the function set out in regulation 38(2):

- (a) provide citizens and the contact points of other relevant European States with such information as is necessary concerning the recognition of professional qualifications, such as information on the national legislation governing the regulated profession concerned

and pursuit of that profession, including social legislation, and where appropriate the rules of ethics;

- (b) on receipt of an enquiry, assist citizens in realising the rights conferred on them by the Directive, in cooperation, where appropriate, with other contact points and competent authorities.

Regulated profession, regulated education and training and applicants

6.—(1) In these Regulations, “regulated profession” means—

- (a) in relation to the United Kingdom—
- (i) a profession listed in any of Parts 1, 3 and 4 of Schedule 1;
 - (ii) a profession practised by members of a professional association who have a title or designation set out in Part 2 of Schedule 1;
 - (iii) a professional activity or group of activities access to which, the pursuit of which or one of the modes of pursuit of which is subject (directly or indirectly) by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications; or
 - (iv) a professional activity or group of activities pursuit of which is by persons using a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification;
- (b) in relation to another relevant European State, a professional activity, or group of professional activities, which constitutes a profession if and in so far as the activity, or group of activities, is regulated in that State as a professional activity.

(2) “Regulated education and training” means education and training which is—

- (a) listed in Annex III of the Directive; or
- (b) directly geared to the practice of a profession in a relevant European 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 provision of that relevant European State or which are monitored or approved by the competent authority in a relevant European State.

(3) For the purposes of Part 2, and of any other provision of these Regulations so far as relating to Part 2, “applicant” means an individual—

- (a) who wishes to access and pursue a regulated profession in the United Kingdom on a temporary and occasional basis, whether in an employed or self-employed capacity;
- (b) who is a national of a relevant European State or who, although not a national of such a State, is by virtue of any enforceable Community right entitled to be treated, for the purposes of access to and pursuit of a regulated profession, no less favourably than a national of such a State;
- (c) whose qualifications were obtained in a relevant European State or a third country;
- (d) who is legally established in his home State for the purpose of pursuing the same profession there; and
- (e) who, if neither that profession nor the education and training leading to it is regulated in his home State, has pursued that profession in that State for at least two years during the ten years preceding the provision of services.

(4) For the purposes of Chapters 1, 2 and 4 of Part 3, and of any other provision of these Regulations so far as relating to those Chapters, “applicant” means an individual—

- (a) who wishes to access and pursue a regulated profession in the United Kingdom on a permanent basis, whether in an employed or self-employed capacity;
- (b) who is a national of a relevant European State or who, although not a national of such a State, is by virtue of any enforceable Community right entitled to be treated, for the purposes of access to and pursuit of a regulated profession, no less favourably than a national of such a State;
- (c) whose qualifications were obtained in a relevant European State or a third country; and
- (d) who, if his qualifications were obtained in a third country, has three years' professional experience in the profession concerned—
 - (i) on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the individual to pursue the profession on its territory in accordance with its rules, and
 - (ii) certified by that State.

Professional qualifications and evidence of formal qualifications

- 7.—(1) In these Regulations, subject to regulation 8(2), “professional qualifications” means—
- (a) qualifications attested by evidence of formal qualifications,
 - (b) an attestation of competence issued by a competent authority in the home State on the basis as set out in regulation 20(a); and/or
 - (c) professional experience.
- (2) “Evidence of formal qualifications” means—
- (a) diplomas, certificates and other evidence issued by an authority in a relevant European State certifying successful completion of professional training obtained mainly in one or more relevant European States; or
 - (b) where paragraph (a) does not apply, diplomas, certificates and other evidence issued by a third country if the holder has three years' professional experience—
 - (i) on the territory of a relevant European State which recognised the formal qualifications obtained in the third country by permitting the applicant to pursue the profession on its territory in accordance with its rules, and
 - (ii) certified by that State.