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STATUTORY INSTRUMENTS

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**2007 No. 2781**

The European Communities (Recognition of  
Professional Qualifications) Regulations 2007

PART 3

FREEDOM OF ESTABLISHMENT

CHAPTER 1

GENERAL SYSTEM FOR THE RECOGNITION OF TRAINING

**Levels of qualification**

**20.** For the purpose of applying conditions of recognition under regulation 22, professional qualifications are grouped under the following levels as set out below—

- (a) an attestation of competence issued by a competent authority of a relevant European State on the basis of either:
  - (i) a training course not forming part of a certificate or diploma within the meaning of paragraphs (b), (c), (d) or (e), or a specific examination without prior training, or full-time pursuit of the profession in another relevant European State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years, or
  - (ii) general primary or secondary education, attesting that the holder has acquired general knowledge;
- (b) a certificate attesting to a successful completion of a secondary course either:
  - (i) general in character, supplemented by a course of study or professional training other than that referred to in paragraph (c) and/or by the probationary or professional practice required in addition to that course, or
  - (ii) technical or professional in character, supplemented where appropriate by a course of study or professional training as referred to in sub-paragraph (i), and/or by the probationary or professional practice required in addition to that course;
- (c) a diploma certifying successful completion of either—
  - (i) training at post-secondary level other than that referred to in paragraphs (d) and (e) of a duration of at least one year or of an equivalent duration on a part-time basis, 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 or the completion of equivalent school education of the second secondary level, as well as the professional training which may be required in addition to that post-secondary course; or
  - (ii) in the case of a regulated profession, training with a special structure as set out in Annex II of the Directive, equivalent to the level of training provided for under

- sub-paragraph (i), which provides a comparable professional standard and which prepares the trainee for a comparable level of responsibilities and functions;
- (d) a diploma certifying successful completion of training at post-secondary level of at least three and not more than four years duration, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment providing the same level of training, as well as the professional training which may be required in addition to that post-secondary course;
  - (e) a diploma certifying that the holder has successfully completed a post-secondary course of at least four years duration, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course.

### **Equal treatment of qualifications**

**21.**—(1) Any evidence of formal qualifications or set of evidence of formal qualifications shall be treated as evidence of formal qualifications of a type covered by regulation 20, including the level in question if such evidence or set of evidence—

- (a) is issued by the competent authority of a relevant European State certifying successful completion of training in any of the relevant European States which is recognised by that relevant European State as being of an equivalent level, and
- (b) confers on the holder the same rights of access to or pursuit of a profession or prepares the applicant for the pursuit of that profession.

(2) Any professional qualification shall be treated as evidence of formal qualifications under the same conditions as set out in paragraph (1) where such professional qualification:

- (a) does not satisfy the requirements contained in the legislative, regulatory or administrative provisions in force in the home State for access to or the pursuit of a profession, but
- (b) confers on the holder acquired rights by legislative, regulatory or administrative provisions in force in the home State.

(3) Paragraph (2) applies, in particular, where—

- (a) the home State raises the level of training required for admission to a profession and for its exercise, and
- (b) an applicant, having undergone former training which does not meet the requirements of the new qualification, benefits from acquired rights by virtue of legislative, regulatory or administrative provisions in the home State.

(4) Where the circumstances of paragraph (3) apply, the former training shall be considered by competent authorities as corresponding to the level of the new training.

### **Conditions for recognition**

**22.**—(1) Subject to a requirement by the competent authority pursuant to regulation 25, if access to or pursuit of a regulated profession in United Kingdom is contingent on possession of specific qualifications, a competent authority shall permit access to and pursuit of that regulated profession to an applicant under the same conditions as apply to native applicants, where that applicant—

- (a) possesses the attestation of competence or evidence of formal qualifications required by another relevant European State, where the profession is regulated, in order to gain access to and pursue that same profession in that relevant European State, or
- (b) has pursued that same profession on a full time basis for two years during the previous ten years in another relevant European State which does not regulate that profession,

provided that the applicant possesses one or more attestations of competence or documents providing evidence of formal qualifications.

(2) Attestations of competence or evidence of formal qualifications shall satisfy the following conditions:

- (a) they shall have been issued by a competent authority of another relevant European State;
- (b) subject to paragraph (5), they shall attest a level of professional qualification at least equivalent to the level immediately prior to that which is required in the United Kingdom; and
- (c) where paragraph (1)(b) applies, they shall also attest that the applicant has been prepared for the pursuit of the profession in question.

(3) A competent authority may not require the two years professional experience referred to in paragraph (1)(b) if:

- (a) the evidence of formal qualifications which the applicant possesses certifies regulated education and training, and
- (b) such certified regulated education and training is at the levels of qualifications described in regulation 20, paragraphs (b), (c), (d) or (e).

(4) The regulated education and training listed in Annex III of the Directive shall be considered as such regulated education and training at the level described in regulation 20(c).

(5) A competent authority shall permit access to and pursuit of a regulated profession where access to this profession is contingent in the United Kingdom on possession of a qualification certifying successful completion of higher or university education of four years duration, and where the applicant possesses a qualification referred to in regulation 20(c).

### **Compensation measures - adaptation periods and aptitude tests**

**23.—**(1) An adaptation period means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a period of pursuit of a regulated profession under the supervision of a qualified member of that profession, subject to an assessment of the ability of the applicant to pursue that profession in the United Kingdom.

(2) The competent authority shall clearly set out the detailed rules governing the adaptation period and its assessment, having regard to the circumstances of each individual applicant and, in particular, to the fact that he is a qualified professional in another relevant European State.

(3) The applicant may be required to undergo further training during the adaptation period.

(4) The applicant's performance during the adaptation period shall be assessed by the competent authority.

(5) The professional status of an applicant during the adaptation period shall be a matter for the competent authority.

**24.—**(1) An aptitude test means, in relation to the regulated profession which the applicant seeks to take up or pursue in the United Kingdom, a test of the applicant's professional knowledge conducted by the competent authority with the aim of assessing the ability of the applicant to pursue that profession in the United Kingdom.

(2) The test shall take into account that he is a qualified professional in another relevant European State.

(3) The competent authority shall determine the matters to be covered by the aptitude test as follows:

- (a) the competent authority shall establish the subjects which, on the basis of a comparison between the education and training required for the practice of the profession required

in the United Kingdom and that received by the applicant, have not been covered by the diploma or other evidence of formal qualifications possessed by the applicant;

- (b) the test shall cover subjects selected from those so established, the knowledge of which is essential for the pursuit of the regulated profession in the United Kingdom; and
- (c) the test may include knowledge of the relevant rules of professional conduct.

(4) The detailed application of the aptitude test and the professional status of an applicant preparing for the aptitude test shall be a matter for the competent authority.

### **Conditions for compensation measures**

**25.**—(1) A competent authority may, before authorising the applicant to practise the regulated profession in the United Kingdom, require him in the circumstances specified in paragraph (3) either (but not both)—

- (a) to complete an adaptation period of up to three years with a successful assessment, or
- (b) to take and pass an aptitude test.

(2) If a competent authority intends to require the applicant to complete an adaptation period or take an aptitude test it must first examine whether the knowledge acquired by the applicant in the course of his professional experience in a relevant European State or in a third country is such that it fully or partly covers substantially different matters.

(3) A competent authority may require the applicant to complete successfully an adaptation period or pass an aptitude test if:

- (a) the duration of education and training of which he provides evidence, under paragraphs (1), (2), (3) or (4) of regulation 22, is at least one year shorter than that required by the regulated profession in the United Kingdom;
- (b) the education and training he has received covers substantially different matters than those covered by the evidence of formal qualifications required for the regulated profession in the United Kingdom; or
- (c) the regulated profession in the United Kingdom:
  - (i) comprises one or more regulated professional activities which do not exist in the profession in the applicant's home State, and
  - (ii) that difference consists in specific training which is required by the regulated profession and which covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.

(4) In this regulation, "substantially different matters" means matters of which knowledge is essential for pursuing the profession and with regard to which the training received by the applicant shows important differences in terms of duration or content from the training required in the United Kingdom.

**26.** Where a requirement is imposed under regulation 25(1), the choice between an adaptation period and aptitude test shall be that of the applicant except:

- (a) in the regulated professions set out in the first column of the table in Part 1 of Schedule 3, whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, where the requirements set out in the second column of that table in respect of each profession shall apply, or
- (b) in cases specified in—
  - (i) regulation 3(9)(a) and (b),
  - (ii) regulation 3(9)(c) concerning only doctors and dental practitioners,

(iii) regulation 3(9)(d), where the applicant is a specialist nurse without training as a general nurse and seeks recognition in the United Kingdom where the relevant professional activities are pursued by nurses responsible for general care 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, or

(iv) regulation 3(9)(e),

where for each of the professions set out in the first column of the table in Part 2 of Schedule 3, the requirements set out in the second column of that table shall apply.

**27.**—(1) A competent authority shall waive the application of an aptitude test or adaptation period under regulation 25 where the applicant’s professional qualifications satisfy the criteria established in a common platform.

(2) In paragraph 1, “common platform” means a set of criteria of professional qualifications which are suitable for compensation for substantial differences which have been identified between the training requirements existing in relevant European States for a given profession and which have been adopted as a measure in accordance with Article 15(2) of the Directive.