

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN QUALIFICATIONS (HEALTH AND SOCIAL CARE
PROFESSIONS) REGULATIONS 2007**

2007 No. 3101

1. This Explanatory Memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. **Description**

These Regulations contain provisions to transpose into domestic legislation European Directive 2005/36/EC (referred to as “the Directive”) on the recognition of professional qualifications, in respect of health and social care professions in the UK. In particular, they transpose those parts of the Directive which relate to the five so-called “sectoral” health professions (doctors, dentists, nurses responsible for general care, midwives and pharmacists) currently covered by sector-specific Directives.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

4.1 The purpose of the Regulations is to implement the Directive in the UK in relation to the health and social care professions.

4.2 The Directive was adopted by the European Parliament (EP) on 7 September 2005 and should be transposed by Member States by 20 October 2007. The Directive aims to make it easier for qualified professionals to practise their professions across European borders with a minimum of restrictions, but with appropriate safeguards where there is a risk to public health and safety. It provides for the mutual recognition of diplomas etc in order to assist the free movement of professionals throughout the EU. The Department of Health is slightly late transposing the Directive, but is confident there is no risk of infraction.

4.3 The Directive has been amended by Directive 2006/100/EC of 20 November 2006, which makes amendments in connection with the accession to the European Union of Bulgaria and Romania. Directive 2006/100/EC should have been transposed by 1st January 2007, but, in relation to the health and social care professions, transposition of that Directive is achieved by these Regulations.

4.4 The scrutiny history in relation to the Directive is as follows:

- Proposal for a Directive of the EP and of the Council on the recognition of professional qualifications (7239/02, COM(2002)119 final) – Explanatory Memorandum (EM) signed 10.4.02. The House of Lords sifted it to sub-committee F on 16.4.02 (Sift 1099); not cleared. The sub-committee

considered it on 18.7.02 in the light of the Minister's letter of 3.7.02 and cleared it by letter to Minister (PoSReport xvi, 2001-2);

- The House of Commons deemed it politically important on 1.5.2002 and did not clear it, Report 27, 2001-2. They reconsidered it on 3.7.2002 and did not clear it, report 35 2001-2. The Committee was updated on 10.6.2003 and 25.3.2004. The Committee wrote to the Minister on 31.3.2004. The Committee considered it on 5.4.04 and cleared it;
- Amended Proposal for a Directive of the EP and of the Council on the recognition of professional qualifications 8722/04 – EM was signed 4.5.04. The House of Lords sifted it to sub-committee G (Sift 1179); cleared 12.5.04. The House of Commons deemed it politically important but cleared it 5.4.04 (Report 19 2003-4);
- Opinion of the Commission pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the proposal for a Directive of the EP and of the Council on the recognition of professional qualifications.
- Documents 9679/05 and 9743/05. EM was signed on 27.6.05. The House of Lords cleared the documents 6.4.05 (sift 1220). The house of commons cleared them as not politically or legally important (Report 4 2005-6).

4.5 The Directive is to be implemented in the UK by a number of different instruments. As well as these Regulations, the instruments are as follows:

- the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781), prepared by the Department for Innovation, Universities and Skills;
- regulations implementing the Directive in relation to the profession of architect, prepared by the Department for Communities and Local Government (not yet made);
- regulations implementing the Directive in relation to the profession of veterinary surgeon, prepared by the Department for Environment, Food and Rural Affairs (not yet made); and
- regulations implementing the Directive in relation to the profession of pharmacy in Northern Ireland (not yet made).

4.6 The European Communities (Recognition of Professional Qualifications) Regulations 2007 (referred to as "the General Systems Regulations") implement the Directive in relation to a wide range of professions, including certain health and social care professions known as the "general systems" professions, for example, opticians, osteopaths and social workers. Certain provisions of the General Systems Regulations also apply in relation to the so-called sectoral health professions (doctors, dentists, pharmacists, nurses and midwives). Accordingly, full implementation of the Directive in relation to the health and social care professions is achieved by a combination of these Regulations and the General Systems Regulations, and these Regulations contain some cross-references to provisions of the General Systems Regulations.

4.7 . The Directive repeals the many previous Directives concerning the recognition of professional qualifications, and replaces them with a single consolidated text covering all regulated professions. In large part, the Directive re-enacts previous provisions, but it does make some important changes to the previous regimes.

4.8 The Regulations do not contain any free-standing provisions, but implement the Directive by means of amendments to Acts and subordinate legislation to reflect the changes and additions to the previous regimes made by the Directive.

4.9 A detailed Transposition Note follows this memorandum.

5. Territorial Extent and Application

5.1 Subject to paragraph 5.2, the Regulations apply to all of the United Kingdom. Ministers in the Devolved Administrations have agreed to these Regulations implementing the Directive for all health and social care professions in the UK, including those whose regulation is not reserved to Westminster.

5.2 Northern Ireland has prepared separate legislation to implement the Directive in relation to the profession of pharmacy in Northern Ireland, and these Regulations implement the Directive in relation to that profession in Great Britain only.

6. European Convention on Human Rights

6.1 The Minister of State for Health Services, Ben Bradshaw, has made the following statement regarding Human Rights:

In my view the provisions of the European Qualifications (Health and Social Care Professions) Regulations 2007 are compatible with the Convention rights.

7. Policy Background

7.1 The Government expects to comply with European law as it applies to Member States and to transpose European legislation into domestic legislation.

7.2 Much of the Directive simply consolidates the provisions of the existing sectoral and general systems Directives, and is not of especial political or legal significance.

7.3 The aspect of the Directive which has attracted the most interest from the regulatory bodies for the health and social care professions is the provision of temporary services in the UK by migrant professionals from a different member State. The regime concerning temporary provision of services already exists for the professions of doctor, dentist, nurse and midwife, but is new for all other health and social care professions.

7.4 There is little flexibility for Member States in transposing the bulk of the Directive, but where there is discretion the UK has, with patient safety in mind, chosen to require additional checks and safeguards. This is particularly relevant in the area of free provision of services by migrants on a “temporary and occasional” basis, where we have chosen to:

- register temporary service providers
- require providers to notify UK regulators of their intention to provide services by sending in a written declaration
- require documentary evidence from providers of their nationality, legal establishment and professional qualifications
- allow regulators to conduct further checks on certain providers

- allow regulators to treat as misconduct breach of conditions imposed in the service provider’s home Member State (MS)
- allow regulators to impose requirements concerning continuing professional development (CPD) to be undertaken by certain providers, where this is not required in their home MS but is a condition of continuing registration in the UK.

Consultation

7.5 We have consulted widely over the last 18 months with UK regulatory bodies for the health and social care professions over the best way of changing domestic legislation to achieve the effects intended by the Directive whilst ensuring that patient safety is maintained and, wherever possible, improved. This process culminated in a formal 12-week public consultation, which closed on 17 August 2007.

7.6 As the UK government is required to implement the Directive, the consultation did not consult on the principles underlying the Directive, nor on those provisions whose transposition into domestic law leaves no room for discretion at Member State (MS) level. The purpose of the consultation was to explain why we are proposing to transpose in the way that we are, and to seek stakeholder views on those parts of the Directive where the UK has discretion to choose how to implement them.

Regulator concerns about patient safety – “temporary and occasional” services

7.7 In their responses to the consultation, regulatory bodies raised concerns about several aspects of the proposed arrangements enabling European migrants to come to the UK to provide services on a “temporary and occasional” basis. In particular, they were concerned that:

- Regulators could not ask the migrant to provide details in advance about where and for how long they intend to provide services, and what kind of work they intend to do;
- Requirements applicable to UK registrants concerning indemnity insurance and continuing professional development (CPD) would not apply to temporary European service providers.

Changes made as a result of the consultation

7.8 As a result of the response to the consultation, we have amended the proposed Regulations to provide that CPD requirements may apply to European service providers in certain specific and limited circumstances.. We have also altered the Regulations to allow regulators discretion to consider breach of conditions imposed in a service provider’s home State as misconduct which could lead to fitness to practise proceedings (and possibly, resulting sanctions) in the UK, in the interests of patient safety. We have also made numerous minor technical/drafting amendments where respondents pointed out that the draft Regulations were incomplete or incorrect.

7.9 However the Department has not been able to include in the Regulations provisions which would not be compatible with the Directive or with the principles of free movement as set out in the Treaty and elucidated in case-law of the European Court of Justice.

Guidance

7.10 The Department for Innovation, Universities and Skills (DIUS) will issue guidance for regulators and the general public, and this will include material relevant to health and social care professionals contributed by the Department of Health. This material will be available on the DIUS and DH websites and will be publicised to health and social care regulators, who will in turn be expected to publicise this information on their websites for the benefit of professionals and the public.

Consolidation

7.11 There are no plans to consolidate the legislation amended by these Regulations.

8. **Impact**

8.1 An Impact Assessment is attached to this Memorandum.

8.2 The impact on the public sector is negligible and can be contained within the existing regulatory bodies' financial allocations.

9. **Contact**

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or

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can answer any queries regarding the instrument.

Transposition Note for Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications

(as amended by Council Directive 2006/100/EC of 20th November 2006 concerning the accession of Bulgaria and Romania)

The European Qualifications (Health and Social Care Professions) Regulations 2007 do what is necessary to implement Directive 2005/36/EC (“the Directive”), as amended by Directive 2006/100/EC to take account of the accession of Bulgaria and Romania. The Regulations make consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

The Regulations implement the Directive in relation only to health and social care professions; other legislation has been produced which implements the Directive in relation to other professions.

The Directive is a consolidation, with some new provisions, of previous Directives, and accordingly many of its provisions are already implemented in domestic legislation. Frequently, these Regulations make amendments to such existing implementing provisions (for example to update wording or references), but do not need to do the main job of initial implementation.

The Regulations do not contain any free-standing provisions, but rather make amendments to existing domestic legislation, as specified in the Transposition Table.

Key to the Transposition Table

General systems professions: opticians, pharmacy technicians, PCDs, social workers, osteopaths, chiropractors, certain nurses, and the HPC professions.

General Systems Regulations: the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781).

HPC professions: those professions regulated by the Health Professions Council, namely arts therapists, biomedical scientists, chiropodists and podiatrists, clinical scientists, dietitians, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, and speech and language therapists.

PCDs: those professions complementary to dentistry currently regulated under the Dentists Act 1984, namely clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists and orthodontic therapists.

Relevant European State: an EEA State or Switzerland.

Sectoral professions: doctors, dentists, pharmacists, midwives and nurses responsible for general care.

CA: Chiropractors Act 1994.

CSA: Care Standards Act 2000.

DA: Dentists Act 1984.

HPO: Health Professions Order 2001.

HPSSA: Health and Personal Social Services Act (Northern Ireland) 2001.

MA: Medical Act 1983.

NMO: Nursing and Midwifery Order 2001.

NMQ: European Nursing and Midwifery Qualifications Designation Order of Council 2004.

NMR: Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004.

OpA: Opticians Act 1989.

OstA: Osteopaths Act 1993.

PMETB: General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003.

PPTO: Pharmacists and Pharmacy Technicians Order 2007.

PQ: Approved European Pharmacy Qualifications Order of Council 2007.

RCSA: Regulation of Care (Scotland) Act 2001.

SDR: European Primary and Specialist Dental Qualifications Regulations 1998.

| Article of Directive | Objective and commentary | Implementation in the Regulations |
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| 2(2) | The second sentence of article 2(2) provides that, in the case of the sectoral professions, a competent authority may recognise a migrant's qualification which was not obtained in a relevant European State only if that qualification is evidence that the minimum training conditions set out in the Directive are satisfied. | <p>Doctors: regulations 13(a) and 16: sections 19(1)(aa) and 21B(1)(e) MA.</p> <p>GPs: regulation 42(c): article 11(3A) PMETB.</p> <p>Specialist doctors: regulation 46(d): article 14(5A) PMETB.</p> <p>Pharmacists: regulation 75(b): article 12(1A) PPTO.</p> <p>Dentists: regulation 113(b): section 16(2B) DA.</p> <p>Specialist dentists: regulation 141(d): regulation 9(2A) SDR.</p> <p>Nurses and midwives: regulation 162(b): article 13(1A) NMO.</p> |
| 3(3) | This provision describes a case where a migrant's qualifications have been obtained in a country other than a relevant European State, but have been recognised by a relevant European State, and the migrant has practised in that State for at least three years. In such cases, the migrant's qualification is covered by the Directive, and the general system will apply, by virtue of article 10(g) of the Directive (see article 10 below). | Article 3(3) is implemented as part of the implementation of article 10 (see below). |
| 5(1) and (2) | Article 5(1) and (2) sets | Doctors: regulations 12 |

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| | <p>out the basic principle of Title II of the Directive (free provision of services). Title II applies where a migrant, who is established in a particular profession in a relevant European State, moves to another relevant European State to provide services in that profession on a temporary and occasional basis.</p> | <p>and 32: section 18 and Schedule 2A MA. Pharmacists: regulations 80 and 97: article 18A and Schedule A1 PPTO. Pharmacy technicians: regulation 87: article 28B PPTO. Dentists: regulations 120 and 132: section 36 and Schedule 4 DA. PCDs: regulation 126: section 36Z3 DA. Nurses and midwives: regulations 168 and 171: article 39 and Schedule 2A NMO. General systems nurses: regulation 169: article 39A NMO. Opticians: regulation 180: sections 8B, 8C and 8D OpA. Osteopaths: regulation 207: section 5A OstA. Chiropractors: regulation 219: section 5A CA. Social workers: for England and Wales: regulation 235: section 58A CSA. For Northern Ireland: regulation 248: section 5A HPSSA. For Scotland: regulation 260: section 46A RCSA. HPC professions: regulation 273: article 13A HPO.</p> |
| 5(3) | <p>Where a migrant moves to provide services, he is subject to certain rules of the host State.</p> | <p>In the case of all the health and social care professions, migrant service providers are subject to the fitness to practise regime. This is achieved by virtue of such service providers being registered professionals and therefore covered by the legislative disciplinary provisions, and no further specific implementation is required.</p> |
| 6(a) | Migrant service providers | Doctors: regulations 12 |

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| | <p>are exempt from the usual registration requirements, but automatic temporary registration is allowable (at no additional cost). All the health and social care professions provide for a form of registration as allowed by the Directive.</p> | <p>and 32: MA section 18 and Schedule 2A, paragraph 3. See also, for other provisions of the MA relating to registration as a service provider, regulation 3 (section 2), regulation 19(b) (section 30(1)(d)), regulation 20 (section 32(5)) and regulation 33(7) (Schedule 3, paragraph 7).</p> <p>GPs: see regulations 41(a)(ii), (b) and (c) and 51: articles 10(2)(d) and (3A) and 18(2A) PMETB.</p> <p>Specialist doctors: see regulations 45 and 51: articles 13(2)(d) and (3A) and 18(2B) PMETB.</p> <p>Pharmacists: regulations 80 and 97: PPTO article 18A and Schedule A1, paragraph 3. See also, for other provisions of the PPTO relating to registration as a service provider, regulation 73 (article 10(2)(b)(iii)) and regulation 92 (article 40(1A)).</p> <p>Pharmacy technicians: regulation 87: article 28B PPTO; see also regulation 81: article 21(2)(b)(iii) PPTO.</p> <p>Dentists: regulations 120 and 132: DA section 36 and Schedule 4, paragraph 3. See also, for other provisions of the DA relating to registration as a service provider, regulation 111 (section 14(1A)(c)) and regulation 116 (section 19(1A)).</p> <p>PCDs: regulation 126: section 36Z3 DA; see also regulations 122 and 125: sections 36B(1A)(b) and 36F(1A) DA.</p> <p>Specialist dentists: see regulation 140: regulation</p> |
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| | | <p>8(2)(e), (2A) and (2B) SDR.</p> <p>Nurses and midwives: regulations 168 and 171: NMO article 39 and Schedule 2A, paragraph 3. See also, for other provisions relating to registration as a service provider, regulation 156 (article 6(3)(aa) NMO), regulation 157 (article 7(4) NMO), regulation 161 (omission of article 11 NMO) and regulation 175 (article 8 Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004).</p> <p>General systems nurses: regulation 169: article 39A NMO.</p> <p>Opticians: regulation 180: sections 8B, 8C and 8D OpA; see also regulation 181 (section 10(1ZA) OpA).</p> <p>Osteopaths: regulation 207: section 5A OstA; see also regulation 208(c) (section 6(4A) OstA).</p> <p>Chiropractors: regulation 219: section 5A CA; see also regulation 220(c) (section 6(4A) CA).</p> <p>Social workers: for England and Wales: regulation 235: section 58A CSA; see also regulations 232 (section 56 CSA) and 242 (section 71(3A) CSA). For Northern Ireland: regulation 248: section 5A HPSSA; see also regulations 245 (section 3 HPSSA) and 255 (section 18(2A) HPSSA). For Scotland: regulation 260 (section 46A RCSA); see also regulations 257 (section 44 RCSA) and 264 (section 57(2A)</p> |
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| | | <p>RCSA).</p> <p>HPC professions: regulation 273: article 13A HPO; see also regulations 267 (article 6(3)(aa) HPO) and 268 (article 7(4) HPO); and regulation 278 (article 7 Health Professions (Parts of and Entries in the Register) Order of Council 2003).</p> |
| 6(b) | This provision is not relevant to the health and social care professions in the UK. | Not implemented. |
| 7(1) and (2) | Member States may require that migrant service providers must, for the first provision of services, complete a declaration and provide certain documents (chiefly proving the migrant's nationality, lawful establishment in the profession in his home State, and professional qualifications). There is also provision for a renewal of the declaration for a future year. All the health and social care professions have implemented these requirements; implementation for the sectoral professions is in these Regulations, but implementation for the general systems professions is in Part 2 of the General Systems Regulations. | <p>Doctors: regulations 12, 28, 32 and 36: MA sections 18 and 49B(3), Schedule 2A, paragraphs 5, 6 and 7, and Schedule 4A.</p> <p>Pharmacists: regulations 80, 95 and 97: PPTO articles 18A and 64A(2), Schedule A1, paragraphs 5, 6 and 7, and Schedule A2.</p> <p>Dentists: regulations 120, 121, 132 and 133: DA sections 36 and 36ZA(3), Schedule 4, paragraphs 5, 6, and 7, and Schedule 4ZA.</p> <p>Nurses and midwives: regulations 168, 170, 171 and 172: NMO articles 39 and 40(2), Schedule 2A, paragraphs 5, 6 and 7, and Schedule 3.</p> |
| 7(3) and last subparagraph of 7(4) | The migrant service provider shall provide the service under the professional title of the host State. The UK legislation provides that registered professionals (including service providers) may use the UK titles. | No specific implementation is required. |

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| 7(4) (first four sub-paragraphs) | <p>Article 7(4) applies to the general systems professions, and to the sectoral professions in cases where article 10 of the Directive applies. In such cases, the competent authority may check the qualifications of the migrant service provider, subject to the conditions and time-limits set out. The substantive requirements of article 7(4) are implemented in Part 2 of the General Systems Regulations.</p> | <p>Cross-references to the relevant provisions of the General Systems Regulations are contained in these Regulations, as follows.</p> <p>Doctors: regulations 12 and 32: MA section 18 and Schedule 2A, paragraph 4(b).</p> <p>Pharmacists: regulations 80 and 97: PPTO article 18A and Schedule A1, paragraph 4(b).</p> <p>Pharmacy technicians: regulation 87: article 28B(2) PPTO.</p> <p>Dentists: regulations 120 and 132: DA section 36 and Schedule 4, paragraph 4(b).</p> <p>PCDs: regulation 126: section 36Z3(2) DA.</p> <p>Nurses and midwives: regulations 168 and 171: NMO article 39 and Schedule 2A, paragraph 4(b).</p> <p>General systems nurses: regulation 169: article 39A(2) NMO.</p> <p>Opticians: regulation 180: sections 8B, 8C(2) and 8D(2) OpA.</p> <p>Osteopaths: regulation 207: section 5A(2) OstA.</p> <p>Chiropractors: regulation 219: section 5A(2) CA.</p> <p>Social workers: for England and Wales: regulation 235: section 58A(2) CSA. For Northern Ireland: regulation 248: section 5A(2) HPSSA. For Scotland: regulation 260: section 46A(2) RCSA.</p> <p>HPC professions: regulation 273: article 13A(2) HPO.</p> |
| 8(1) | This requires competent authorities of relevant European States to | Doctors: regulations 28 and 36: section 49B(3) and Schedule 4A MA. |

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| | <p>cooperate in relation to the status of professionals providing services across borders. For the general systems professions, this requirement is implemented in the General Systems Regulations.</p> | <p>Specialist doctors and GPs: regulations 52 and 64: article 19(2) and Schedule 7A, Part 1, PMETB. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO. Dentists: regulations 121 and 133: DA section 36ZA(3) and Schedule 4ZA. Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172: article 40(2) and Schedule 3 NMO.</p> |
| 8(2) | <p>This requires competent authorities to ensure that processes exist to pursue complaints made against migrant service providers. For the general systems professions, this requirement is implemented in the General Systems Regulations.</p> | <p>Doctors: regulations 28, 36 and 70: section 49B(3) and Schedule 4A MA, and an amendment to the General Medical Council (Fitness to Practise) Rules 2004. Specialist doctors and GPs: regulations 52 and 64: article 19(2) and Schedule 7A, Part 1, PMETB. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO; see also articles 47(1), 50(2)(b) and (3)(c), 51(2)(b) and 52(2)(b) PPTO (not amended by these Regulations). Dentists: regulations 121 and 133: DA section 36ZA(3) and Schedule 4ZA; see also DA Schedule 3, paragraph 2(2)(g) (not amended by these Regulations). Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172:</p> |

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| | | article 40(2) and Schedule 3 NMO; see also article 32(2)(1) NMO (not amended by these Regulations). |
| 9 | This provision is not relevant to the health and social care professions in the UK. | Not implemented. |
| 10 | This explains the application of Chapter I of Title III of the Directive, the general system. The general system applies to the general systems professions, and it also applies in certain cases, which are specified in article 10, to the sectoral professions. | <p>In relation to the sectoral professions, cross-references to the relevant provisions of the General Systems Regulations, which set out the cases specified in article 10, are contained in these Regulations, as follows.</p> <p>Doctors: regulation 8: section 14A MA; and regulation 14: section 19A MA.</p> <p>GPs: regulation 43: article 11A PMETB; see also regulation 41(a)(i) (article 10(2)(ba) PMETB).</p> <p>Specialist doctors: regulation 47: article 14A PMETB; see also regulation 45(a) (article 13(2)(c) PMETB).</p> <p>Pharmacists: regulation 75(a): article 12(1)(ba) PPTO.</p> <p>Dentists: regulation 112: section 15(1)(ba) DA.</p> <p>Specialist dentists: regulation 140: regulation 8(2)(c) SDR.</p> <p>Nurses and midwives: regulation 162(a): article 13(1)(e) NMO.</p> |
| 11-15 | The requirements of Chapter I of Title III concerning the general system are implemented in Part 3 of the General Systems Regulations. | Cross-references to the relevant provisions of the General Systems Regulations are contained in these Regulations. For the sectoral professions, the references can be found as described in the entry above relating to article 10 of the Directive. |

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| | | <p>For the general systems professions, the references are as follows.</p> <p>Pharmacy technicians: regulation 83: article 23(1)(b) PPTO.</p> <p>PCDs: regulation 123: section 36C(3) DA.</p> <p>General systems nurses: regulation 162(a): article 13(1)(f) NMO.</p> <p>Opticians: regulation 179: section 8(1A) OpA.</p> <p>Osteopaths: section 14(10) OstA deals with this point and this has not been amended by these Regulations.</p> <p>Chiropractors: section 14(10) CA deals with this point and this has not been amended by these Regulations.</p> <p>Social workers: for England and Wales: regulation 238: section 64(A1) CSA. For Northern Ireland: regulation 251: section 11(A1) HPSSA. For Scotland: regulation 260: section 46B(a) RCSA.</p> <p>HPC professions: regulation 272: article 12(1)(b) HPO.</p> |
| 16-20 | These provisions are not relevant for the health and social care professions. | Not implemented. |
| 21(1), (2) and (3) and Annex V, point 5.1.1 (doctors), point 5.1.2 (specialist doctors), 5.1.4 (general practitioners), 5.2.2 (nurses responsible for general care), 5.3.2 (dental practitioners), 5.3.3 (specialist dentists), 5.5.2 (midwives) and 5.6.2 (pharmacists) | This provision sets out the principle of automatic recognition of qualifications for the sectoral professions. The essential requirement is that relevant European States shall recognise the qualifications granted in other States if they are listed in the relevant point of Annex V of the Directive. (There are certain other conditions, | <p>Doctors: regulation 11(3)(b) and (4): section 17(1)(a) and (b) and (2)(a) MA; see also regulation 31 (repeal of Schedule 2 MA).</p> <p>GPs: regulation 42(a): article 11(1)(a) PMETB; see also regulation 62 (repeal of Schedule 6A PMETB).</p> <p>Specialist doctors: regulation 48(3): article 15(1)(b) and (ba) PMETB;</p> |

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| | notably relating to midwives). | <p>see also regulation 63 (repeal of Schedule 7 PMETB).</p> <p>Pharmacists: regulation 108(3)(b)(i) and (5): articles 2(2)(a) and 4(a) PQ; see also regulation 108(10) (repeal of Schedule 2 PQ).</p> <p>Dentists: regulation 130(3) and (4): DA Schedule 2, paragraph 2 and 3(a); see also regulation 130(12) (repeal of Part II of Schedule 2 DA).</p> <p>Specialist dentists: regulation 143(2)(a): regulation 10(1)(a) and (aa) SDR; see also regulation 149 (repeal of Schedule 1 SDR).</p> <p>Nurses and midwives: regulation 176(3) and (4): articles 3 and 4(1), (2)(a) and (3) NMQ; see also regulation 176(14) (repeal of Schedule 2 NMQ).</p> |
| 21(4) | This provision states that competent authorities need not recognise qualifications in pharmacy listed in the relevant point of Annex V in connection with practice in a new pharmacy open for less than three years. | This provision (which is not new) is implemented in the Medicines Act 1968, sections 70 and 71. No further implementation in these Regulations is required. |
| 21(6) | This provision complements the key principle in article 21(1) by requiring that relevant European States make access to the sectoral professions dependent upon the satisfaction of the minimum training conditions and the possession of the relevant qualification listed in Annex V of the Directive. | This general principle is implemented by ensuring that UK qualifications meet the minimum training conditions, as described in more detail below. |
| 22(a) | Relevant European States may authorise part-time training as long as its | <p>GPs: regulation 38: article 5(1)(a) PMETB.</p> <p>Specialist doctors:</p> |

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| | overall duration and quality is equivalent to full-time training. | regulation 39: article 6(1)(b) PMETB. Pharmacists: regulation 77: article 16(5)(b) PPTO. Dentists: regulation 110: section 12A DA. Specialist dentists: regulation 139: regulation 7 SDR. Nurses and midwives: regulation 177(4)(a): rule 3(1B) NMR. |
| 22(b) | Relevant European States may organise procedures relating to continuing professional education and training. | No specific implementation required. |
| 23(1) | Article 23 describes certain situations (“acquired rights”) in which migrants may qualify for automatic recognition, despite not complying with all the requirements needed for automatic recognition under article 21(1). Article 23(1) provides that migrants who do not meet the minimum training conditions may qualify as long as they have practised safely in their home State for at least three years. | Doctors: regulations 11(3)(b) and (4), 28 and 36: sections 17(1)(b) and (c), (2)(b) and (3)(a) and 49B(3) and Schedule 4A MA. Specialist doctors: regulations 48(4), 52 and 64: PMETB articles 15(1)(c) and 19(2) and Schedule 7A, Part 1. Pharmacists: regulation 108(5): article 4(c) PQ; and regulations 95 and 97: PPTO article 64A(2) and Schedule A2. Dentists: regulations 121, 130(4) and (6) and 133: DA section 36ZA(3), Schedule 2, paragraphs 3(b) and 4, and Schedule 4ZA. Specialist dentists: regulations 138, 143(2)(a) and 148: SDR regulations 4(2) and 10(1)(b) and Schedule A1. Nurses and midwives: regulation 176(4) and (5): articles 4(1) and (2)(b) and 5 NMQ; and regulations 170 and 172: article 40(2) and Schedule 3 NMO. |
| 23(2) | This provision concerns acquired rights relating to qualifications obtained in | Doctors: regulation 11(5): section 17(4) MA. Specialist doctors: |

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| | the former German Democratic Republic. | regulation 48(7): article 15(1)(f) PMETB. Pharmacists: regulation 108(7): article 6 PQ. Dentists: regulation 130(9): Schedule 2, paragraph 7 DA. Specialist dentists: regulation 143(2)(a) and (3): regulation 10(1)(d) and (2) SDR. Nurses and midwives: regulation 176(10): article 9 NMQ. |
| 23(3), (4) and (5) | This provision concerns acquired rights relating to qualifications obtained in the former Czechoslovakia, the former Soviet Union or the former Yugoslavia. | Doctors: regulation 11(6): section 17(4A) MA. Specialist doctors: regulation 48(8): article 15(1)(g) PMETB. Pharmacists: regulation 108(6): article 5 PQ. Dentists: regulation 130(10): Schedule 2, paragraph 8 DA. Specialist dentists: regulation 143(2)(b): regulation 10(1)(e) SDR. Nurses and midwives: regulation 176(11): article 10 NMQ. |
| 23(6) | This provision gives acquired rights to migrants whose qualification, despite not being listed in the relevant point of Annex V, meets the minimum training conditions. | Doctors: regulations 11(3)(b) and (4), 28 and 36: sections 17(1)(ba) and (c), (2A) and (3)(b) and 49B(3) and Schedule 4A MA. GPs: regulations 42(a), 52 and 64: PMETB articles 11(1)(c) and 19(3) and Schedule 7A, Part 2. Specialist doctors: regulations 48(5), 52 and 64: PMETB articles 15(1)(d) and 19(3) and Schedule 7A, Part 2. Pharmacists: regulation 108(5) and (8): articles 4(b) and 7 PQ; and regulations 95 and 97: article 64A(2) and Schedule A2 PPTO. Dentists: regulations 121, 130(5) and (6) and 133: |

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| | | DA section 36ZA(3), Schedule 2, paragraphs 3A and 4 and Schedule 4ZA. Specialist dentists: regulations 138, 143(2)(a) and 148: SDR regulations 4(2) and 10(1)(c) and Schedule A1. Nurses and midwives: regulation 176(6): article 6 NMQ; and regulations 170 and 172: article 40(2) and Schedule 3 NMO. |
| 23a (inserted by Directive 2006/100/EC) | This concerns a specific professional health qualification in Bulgaria but there is no need to implement this as the qualification does not benefit from automatic recognition in other relevant European States. | Not implemented. |
| 24 | Article 24 sets out the minimum training conditions required for doctors. | Regulation 5(a) and (b), 6, 7 and 9(d): sections 5(2A), 10A(6), 14(3) and 15A(5) MA. |
| 25(1), (2) and (3) | Article 25 sets out the minimum training conditions required for specialist doctors. | Regulation 39: article 6(1)(b) PMETB. |
| 25(4) | This provision requires that specialist medical qualifications may only be issued to a person who has basic medical qualifications. | This provision is already implemented in article 8(2) PMETB, and no amendments are required to be made in these Regulations. |
| 26 and Annex V, point 5.1.3 | Article 26 provides that the automatic recognition procedure applies in relation to specialist medical qualifications of a kind listed in Annex V, point 5.1.3. | See regulation 48(3): article 15(1)(b)(iii) and (ba)(iii) PMETB. These provisions (and others in article 15 PMETB) refer to qualifications listed in Part 1 of Schedule 3 PMETB, which are all qualifications listed in Annex V, point 5.1.3 of the Directive. |
| 27(1) | This is an optional provision relating to acquired rights for part-time doctors. It has not been implemented in the UK. | Not implemented. |
| 27(2) | This is an acquired right | Regulation 48(6): article |

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| | relating to specialist doctors with Spanish qualifications. | 15(1)(e) PMETB. |
| 27(3) | This is an acquired right for certain repealed specialist medical qualifications, and is not applicable in the UK. | Not implemented. |
| 28(1), (2) (first sub-paragraph) and (3) | Article 28 sets out the minimum training conditions required for GPs. | Regulation 38: article 5 PMETB. |
| 28(4) | This provision requires that GP qualifications may only be issued to a person who has basic medical qualifications. | This provision is already implemented in article 8(2) PMETB, and no amendments are required to be made in these Regulations. |
| 28(5) | This provides that GP qualifications may be issued in certain circumstances to those who have completed different training, but this provision has not been implemented in the UK. | Not implemented. |
| 29 | Article 29 requires relevant European States to provide that GP activities (in the UK context) in the NHS are carried out by those with listed GP qualifications, except for GP trainees. | This provision is already implemented in article 10(4) and (5) PMETB, and no amendments are required to be made in these Regulations. |
| 30(1), first sub-paragraph | Relevant European States are required to determine acquired rights specific to GPs. | Regulations 44 and 61: PMETB article 12(1) and Schedule 6, paragraph 1(c). |
| 30(1), second sub-paragraph | This requires competent authorities to issue certificates to GPs with acquired rights. | This provision is already implemented in article 12(3) PMETB, and no amendments are required to be made in these Regulations. |
| 30(2) | This requires competent authorities to recognise qualifications of GPs with acquired rights. | Regulation 42(a): article 11(1)(b) PMETB. |
| 31 and Annex V, point 5.2.1 | Article 31 sets out the minimum training conditions required for nurses responsible for general care (these are | Regulation 177(4)(a) and (b): rule 3(1) and (2) NMR. |

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| | sectoral profession nurses), and point 5.2.1 of Annex V contains further details as to the required training programme. | |
| 32 | This provision describes the professional activities of nurses by reference to a different, and seemingly incorrect, provision of the Directive. It does not seem necessary to implement this. | Not implemented. |
| 33(1) | This gives details of activities which must be carried out by nurses who wish to qualify for acquired rights. | Regulation 176(2)(b): article 2(2)(b) NMQ. |
| 33(2) and (3) | These provisions contain technical details relating to acquired rights for nurses who possess Polish qualifications. | Regulation 176(7): article 7 NMQ. |
| 33(a) (inserted by Directive 2006/100/EC) | This provision contains technical details relating to acquired rights for nurses who possess Romanian qualifications. | Regulation 176(8): article 7A NMQ. |
| 34 and Annex V, point 5.3.1 | Article 34 sets out the minimum training conditions required for dentists, and point 5.3.1 of Annex V contains further details as to the required study programme. | Regulation 110: section 12A DA. |
| 35(1) and (2) | Article 35 sets out the minimum training conditions required for specialist dentists. | Regulation 139: regulation 7(1) and (2) SDR. |
| 35(3) | This provision requires that specialist dental qualifications may only be issued to a person who has basic dental qualifications. | This provision is already implemented in regulation 6(2) SDR, and no amendments are required to be made in these Regulations. |
| 36 | Article 36 describes the professional activities of dentists and requires that they be carried out by persons with dental qualifications. (This article is in part aimed at other relevant European States | The description of professional activities is not explicitly implemented although “the practice of dentistry” is defined in section 37(1) DA. Regulation 127 amends section 38(1) DA, which |

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| | where dentistry has until recently not been a separate profession, but has formed part of the medical profession). | provides that only registered dentists or dental care professionals may practise dentistry. |
| 37(1) (as amended by Directive 2006/100/EC) | This provision gives details relating to persons who qualified as doctors in Italy, Spain, Austria, the Czech Republic, Slovakia and Romania, who may have acquired rights to practise as a dentist. | Regulation 130(7) and (11): DA Schedule 2, paragraphs 5, 9 and 10. |
| 37(2) | This provision gives further details relating to persons who qualified as doctors in Italy and who may have acquired rights to practise as a dentist. | Regulation 130(8): DA Schedule 2, paragraph 6A. |
| 40 and Annex V, point 5.5.1 | Article 40 sets out the minimum training conditions required for midwives, and point 5.5.1 of Annex V contains further details as to the required training programme. | Regulation 177(4)(a) and (b): rule 3(1A) and (2) NMR. |
| 41 | This provides that midwifery qualifications listed in the Directive benefit from automatic recognition only if the holder satisfies certain conditions as to training set out in article 41. In certain cases, a specified certificate is required to be produced. | Regulation 176(2)(c), (3), (4) and (6): article 2(3), 3(2), 4(3) and 6(3) NMQ; and regulations 170 and 172: article 40(2) and Schedule 3 NMO. |
| 42 | Article 42 describes the professional activities of midwives. It does not seem necessary to implement this. | Not implemented. |
| 43(1) | This provision describes certain acquired rights for midwives in relation to the certificate required under article 41. | Regulation 176(2)(b), (4) and (6): article 2(2), 4(3)(b)(ii) and 6(3)(b)(ii) NMQ; and regulations 170 and 172: article 40(2) and Schedule 3 NMO. |
| 43(2) | This provision describes a specific acquired right for midwives in relation to qualifications obtained in | Regulation 176(2)(b) and (9): article 2(2) and 8 NMQ. |

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| | the former German Democratic Republic. | |
| 43(3) and (4) | These provisions contain technical details relating to acquired rights for midwives who possess Polish qualifications. | Regulation 176(7): article 7 NMQ. |
| 43(a) (inserted by Directive 2006/100/EC) | This provision contains technical details relating to acquired rights for midwives who possess Romanian qualifications. | Regulation 176(8): article 7A NMQ. |
| 44 and Annex V, point 5.6.1 | Article 44 sets out the minimum training conditions required for pharmacists, and point 5.6.1 of Annex V contains further details as to the required content of the training course. | Regulation 77: article 16(5) PPTO. |
| 45(1) and (2) | These provisions describe the professional activities of pharmacists. It does not seem necessary to implement this. | Not implemented. |
| 45(3) and (4) | These provisions apply where a relevant European State makes access to the pharmacy profession contingent upon supplementary professional experience. This is not the case in GB. | Not implemented. |
| 45(5) | This provision applies where a relevant European State had a competitive examination in place in 1985 to select owners of new pharmacies. This is not the case in GB. | Not implemented. |
| 50(1) and Annex VII | Article 50(1) provides that relevant European States may demand the documents listed in Annex VII, in relation to an application by a migrant for establishment (whether under the automatic recognition procedure or the general system). | See below for the implementation of particular provisions in Annex VII of the Directive. |
| Annex VII, paragraph 1(a) | Evidence may be demanded of a migrant's nationality. For the general | Doctors: regulation 33(5): MA Schedule 3, paragraph 4A. |

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| | systems professions, this provision is implemented in the General Systems Regulations. | <p>Pharmacists: regulation 78(a)(ii): article 17(1)(b)(ia) PPTO.</p> <p>Dentists: regulation 115(c): section 18(2A)(a) and (b) DA.</p> <p>Nurses and midwives: regulation 177(14): Schedule 3 NMR.</p> |
| Annex VII, paragraph 1(b) | Evidence may be demanded of a migrant's qualifications. In a case to which the general system applies, the migrant may be required to provide information regarding his training. This latter provision is implemented in the General Systems Regulations. | <p>Doctors: regulations 28, 33(4)(a) and 36: MA section 49B(3), Schedule 3, paragraph 3(1) and Schedule 4A.</p> <p>GPs and specialist doctors: regulations 52 and 64: PMETB article 19(3) and Schedule 7A, Part 2.</p> <p>Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO; note also the requirement to be "appropriately qualified" in article 11(1)(a)(i) PPTO.</p> <p>Dentists: this provision is implemented in section 18(2)(a) DA, and no amendment is required to be made by these Regulations.</p> <p>Specialist dentists: the qualifications required to be shown by applicants are set out in regulations 8, 9 and 10 SDR.</p> <p>Nurses and midwives: regulation 177(5)(a): rule 5(2) NMR.</p> |
| Annex VII, paragraph 1(c) | This provision is not relevant for the health and social care professions. | Not implemented. |
| Annex VII, paragraph 1(d) | Evidence may be demanded of a migrant's good character. For the general systems professions, this provision is implemented in the General Systems Regulations. | <p>Doctors: regulations 23, 24, 28 and 36: MA sections 44B(1), 44BA(1) and (4) to (7) and 49B(3) and Schedule 4A.</p> <p>GPs and specialist doctors: regulations 52 and 64: article 19(2) and Schedule 7A, Part 1 PMETB.</p> |

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| | | <p>Pharmacists: regulations 78(b), 95 and 97: PPTO articles 17(4) and (7) to (10) and 64A(2), and Schedule A2.</p> <p>Dentists: regulations 112(f) and (g), 121 and 133: DA sections 15(4B), (4BA), (4BD) and (4C) and 36ZA(3), and Schedule 4ZA.</p> <p>Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR.</p> <p>Nurses and midwives: regulation 177(6)(b): rule 6(1A)(a), (1B), (1C) and (1F) NMR; and regulations 170 and 172: article 40(2) and Schedule 3 NMO.</p> |
| Annex VII, paragraph 1(e) | Evidence may be demanded of a migrant's good health. For the general systems professions, this provision is implemented in the General Systems Regulations. | <p>Doctors: regulations 23, 24, 28 and 36: MA sections 44B(1), 44BA(1) to (3) and (6) and (7) and 49B(3) and Schedule 4A.</p> <p>GPs and specialist doctors: regulations 52 and 64: article 19(2) and Schedule 7A, Part 1 PMETB.</p> <p>Pharmacists: regulation 78(b): article 17(4) to (6) and (9) and (10) PPTO.</p> <p>Dentists: regulation 112(f) and (g): section 15(4BB), (4BC), (4BD) and (4C) DA.</p> <p>Nurses and midwives: regulation 177(6)(b): rule 6(1A)(b), (1D), (1E) and (1F) NMR.</p> |
| Annex VII, paragraph 1(f) | Evidence may be demanded of a migrant's insurance or financial status, where such evidence is demanded of UK nationals. This applies to the professions of optician, osteopath and chiropractor. | This provision is implemented in the General Systems Regulations. |
| Annex VII, paragraph 2 | In the case of the sectoral professions, a certificate | Doctors: regulations 28, 33(4)(b) and 36: MA |

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| | <p>relating to a migrant's qualifications may be demanded.</p> | <p>section 49B(3), Schedule 3, paragraph 3(1A) and (1B), and Schedule 4A. GPs and specialist doctors: regulations 49, 52 and 64: PMETB articles 15A and 19(3) and Schedule 7A, Part 2. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO; rule 6(3)(e) of the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007. Dentists: regulations 115(c), 121 and 133: DA sections 18(2A)(c) and (2B) and 36ZA(3), and Schedule 4ZA. Specialist dentists: regulations 138, 142 and 148: regulations 4(2) and 9A(1) and (2), and Schedule A1 SDR. Nurses and midwives: regulation 177(5)(b): rule 5(3) and (4) NMR; and regulations 170 and 172: article 40(2) and Schedule 3 NMO.</p> |
| 50(2) | <p>This provides that relevant European States may, in the case of justified doubts, make further enquiries concerning a migrant's qualifications or satisfaction of the minimum training conditions applicable to his profession. In the case of the general systems professions, this provision is implemented in the General Systems Regulations.</p> | <p>Doctors: regulations 28 and 36: MA section 49B(3) and Schedule 4A. GPs and specialist doctors: regulations 52 and 64: PMETB article 19(2) and (3) and Schedule 7A, Parts 1 and 2. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO; regulation 108(9): article 8(a) and (b) PQ. Dentists: regulations 121 and 133: section 36ZA(3) and Schedule 4ZA DA. Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172:</p> |

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| | | article 40(2) and Schedule 3 NMO. |
| 50(3) | This provides that relevant European States may, in the case of justified doubts, make further enquiries concerning a migrant's training or qualifications in a situation where part of the training has been carried out in a different relevant European State. In the case of the general systems professions, this provision is implemented in the General Systems Regulations. | Doctors: regulations 28 and 36: MA section 49B(3) and Schedule 4A. GPs and specialist doctors: regulations 52 and 64: PMETB article 19(2) and (3) and Schedule 7A, Parts 1 and 2. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO; regulation 108(9): article 8(c) PQ. Dentists: regulations 121 and 133: section 36ZA(3) and Schedule 4ZA DA. Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172: article 40(2) and Schedule 3 NMO. |
| 50(4) | This concerns the swearing of oaths and is not applicable to the UK. | Not implemented. |
| 51(1) | This provides that competent authorities shall acknowledge receipt of applications within one month of their receipt. In the case of the general systems professions, this provision is implemented in the General Systems Regulations. | Doctors: regulation 33(5): MA Schedule 3, paragraph 4B. GPs and specialist doctors: regulation 50: article 16(1) PMETB. Pharmacists: regulation 79: article 18(2) PPTO. Dentists: regulation 117: section 21A(2) DA. Specialist dentists: regulation 142: regulation 9A(4) SDR. Nurses and midwives: regulation 159(b): article 9(3A) NMO. |
| 51(2) | This provision specifies time-limits within which a competent authority must deal with an application. Reasons should be given for the authority's decision. In the case of the general systems | Doctors: regulation 33(6): MA Schedule 3, paragraph 5(1) and (1A). (The requirement to give reasons exists already in MA Schedule 3A, paragraph 3(1)(b) and no amendments are required |

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| | <p>professions, this provision is implemented in the General Systems Regulations.</p> | <p>to be made by these Regulations).</p> <p>GPs and specialist doctors: regulation 50: article 16 PMETB.</p> <p>Pharmacists: regulation 79: article 18(3) to (5) PPTO.</p> <p>Dentists: regulation 117: section 21A(3) and (4) DA. (The requirement to give reasons exists already in DA Schedule 2A, paragraph 3(1) and no amendments are required to be made by these Regulations).</p> <p>Specialist dentists: regulation 142: regulation 9A(5), (7) and (8) SDR.</p> <p>Nurses and midwives: regulation 159(c): article 9(4), (5) and (5A) NMO.</p> |
| 51(3) | <p>This provision requires that a competent authority's decision on an application for establishment (or failure to reach a decision) must be appealable.</p> | <p>Doctors: regulation 34: MA Schedule 3A, especially paragraphs 2 and 3(2).</p> <p>GPs and specialist doctors: regulations 54 and 55: articles 21 and 23 PMETB.</p> <p>Pharmacists and pharmacy technicians: regulations 93 and 94: articles 42 and 43 PPTO.</p> <p>Dentists: regulation 131: DA Schedule 2A, especially paragraphs 2 and 3(2).</p> <p>PCDs: regulation 134: DA Schedule 4A, especially paragraphs 2 and 3(2).</p> <p>Specialist dentists: regulations 142, 145 and 146: regulations 9A(6), 14 and 14A SDR.</p> <p>Nurses and midwives: regulations 159(d), 166 and 167: articles 9(6), 37 and 38 NMO.</p> <p>Opticians: regulation 188: Schedule 1A OpA.</p> <p>Osteopaths: regulations</p> |

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| | | <p>211 and 212: sections 29 and 29A OstA.</p> <p>Chiropractors: regulations 223 and 224: sections 29 and 29A CA.</p> <p>Social workers: for England and Wales: regulation 241: section 68 CSA. For Northern Ireland: regulation 254: section 15(2A) HPSSA. For Scotland: regulation 263: section 51(1) RCSA.</p> <p>HPC professions: regulations 275 and 276: articles 37 and 38 HPO.</p> |
| 52(1) | <p>This provision requires migrants in the sectoral professions to use the professional title applicable in the UK. (Paragraph (2) of article 52 does not apply to health and social care professions).</p> | <p>No specific implementation is required as migrants from other relevant European States are entitled to use the UK titles.</p> |
| 53 | <p>Article 53 requires migrants whose qualifications have been recognised to have a sufficient knowledge of the language of the State in which they are practising their profession (this does not allow competent authorities to test their language competence prior to recognition of their right to practise).</p> | <p>In the NHS, professionals are required to show English competence as a condition of entry on the relevant performers' list. No specific implementation is required in these Regulations.</p> |
| 54 | <p>Article 54 allows migrants to use the academic title conferred on them in their home State. UK legislation does not prohibit this.</p> | <p>No specific implementation required.</p> |
| 55 | <p>This concerns approval by health insurance funds and is not applicable in the UK.</p> | <p>Not implemented.</p> |
| 56(1) | <p>This provision requires competent authorities to cooperate with each other and ensure the confidentiality of</p> | <p>Doctors: regulations 28 and 36: section 49B(3) and Schedule 4A MA.</p> <p>GPs and specialist doctors: regulations 52</p> |

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| | <p>information exchanged. For the general systems professions, this provision is implemented in the General Systems Regulations.</p> | <p>and 64: PMETB article 19(2) and Schedule 7A, Part 1. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO. Dentists: regulations 121 and 133: section 36ZA(3) and Schedule 4ZA DA. Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172: article 40(2) and Schedule 3 NMO.</p> |
| 56(2) | <p>This concerns the exchange of information between competent authorities regarding disciplinary actions, criminal sanctions or other serious circumstances. For the general systems professions, this provision is implemented in the General Systems Regulations.</p> | <p>Doctors: regulations 28 and 36: section 49B(3) and Schedule 4A MA. GPs and specialist doctors: regulations 52 and 64: PMETB article 19(2) and Schedule 7A, Part 1. Pharmacists: regulations 95 and 97: article 64A(2) and Schedule A2 PPTO. Dentists: regulations 121 and 133: section 36ZA(3) and Schedule 4ZA DA. Specialist dentists: regulations 138 and 148: regulation 4(2) and Schedule A1 SDR. Nurses and midwives: regulations 170 and 172: article 40(2) and Schedule 3 NMO.</p> |
| 56(3) | <p>This requires relevant European States to designate, in relation to each profession, the competent authorities which award qualifications, deal with applications and take the decisions referred to in the Directive. The General Systems Regulations contain a list of designated competent authorities in relation to the general</p> | <p>Doctors: regulation 28: MA section 49B(1), (2) and (4). GPs and specialist doctors: regulation 52: article 19(1) and (4) PMETB. Pharmacists: regulation 95: article 64A(1) and (3) PPTO. Dentists: regulation 121: section 36ZA(1), (2) and (4) DA. Specialist dentists:</p> |

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| | systems professions. | regulation 138: regulation 4(1) SDR. Nurses and midwives: regulation 170: article 40(1) and (3) NMO. |
| 56(4), 57 and 60 | These are overarching provisions relating to a national coordinator, contact points and reports, which have been implemented in the General Systems Regulations. | Not implemented. |

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| Department Health | Impact Assessment of European Qualifications (Health and Social Care Professions) Regulations 2007 |
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| Stage | Version 17/05/07 | Related Publications |
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Available to view or download at:

www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm

Contact name for enquiries: Keith Baggs

Telephone number: 0113 254 5791

What is the problem/risk under consideration? Why is government intervention necessary?

The Government is required under European Community law to transpose Directive 2005/36/EC into domestic law by 20th October 2007.

What are the policy objectives and the intended outcomes/effects?

Transposition of Directive 2005/36/EC into UK domestic law. Much of the Directive replaces and updates existing Directives but it also introduces some new elements into law especially regarding temporary provision of services. The main aim of the Directive is to free up movement of professionals throughout the EU including the EEA countries

What policy options have been considered? Please justify any preferred option.

There are only two options: whether or not to transpose the Directive into UK law. It was agreed to transpose to avoid infraction proceedings being taken against the UK resulting in the possible imposition of heavy fines.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? 07/2009

I am content that the Impact Assessment represents a fair and reasonable view of the expected costs, benefits and impact of the policy.

Signed by the Chief Economist: Signed by Simon Peck, Head of Workforce Directorate Analysis Team (Given the small sum involved this has not been signed off by a Chief Economist)

Date: 16th May 2007

Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister: ***Ben Bradshaw***

Date: ***1st November 2007***

Minister of State for Health Services-Department of Health

SUMMARY: ANALYSIS & EVIDENCE

| Policy Option | Description |
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| <p>ANNUAL COSTS</p> <p>One off (Transition) £-£ 30k Yrs <input style="width: 30px;" type="text"/></p> <p>Average Annual Cost (excluding one-off)</p> <div style="background-color: #ffff00; padding: 2px; display: inline-block;">£-£10.8k</div> | <p>Description and scale of key monetised costs by 'main affected groups'</p> <p>Additional costs fall to the UK Health and Social Care regulatory bodies only. They relate to the cost of administration of applications for temporary provision of services where the Directive explicitly prohibits the regulatory bodies charging a registration fee. There will also be a small set up cost for each regulator for setting up the process. The £12k pa is based on an estimate of 400 migrants and the costs of admin work to register them.</p> <p style="text-align: right;">£-£ 79.6k</p> <p>First year costs £6K.</p> |

Other **key non-monetised costs** by 'main affected groups'

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| <p>ANNUAL BENEFITS</p> <p>One off £-£ 0 Yrs <input style="width: 30px;" type="text"/></p> <p>Average Annual Benefit (excluding one-off)</p> <div style="background-color: #ffff00; padding: 2px; display: inline-block;">£-£ 0</div> | <p>Description and scale of key monetised benefits by 'main affected groups'</p> <p style="text-align: right;">Total Benefit (PV) £-£ 0</p> |
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Other **key non-monetised benefits** by 'main affected groups': Greater cooperation between competent authorities throughout Europe and a reduction in bureaucracy for individual healthcare professionals moving throughout Europe.

Key Assumption/Sensitivities/Risks Our assumption is that the current number of EEA migrants seeking temporary registration which is around 80 per annum will rise under the new arrangements to around 400.

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| Price Base Year 2007 | Time Period Years 5 | Net Benefit Range (NPV) £-£ 0 | NET BENEFIT (NPV Best estimate) £ 0 |
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| What is the geographic coverage of the policy/option? | UK | | | | |
| On what date will the policy be implemented? | 19 TH October 2007 | | | | |
| Which organisation(s) will enforce the policy? | UK Health and Social care Regulators | | | | |
| What is the total annual cost of enforcement for these organisations? | £-£ Nil | | | | |
| Does enforcement comply with Hampton principles? | Yes | | | | |
| Will implementation go beyond minimum EU requirements? | No | | | | |
| What is the value of the proposed offsetting measure per year? | £-£ | | | | |
| Will the proposal have a significant impact on competition? | No | | | | |
| For different sized organisations: | <table style="display: inline-table; border: none;"> <tr> <td style="border: none; width: 20px;">Micro</td> <td style="border: none; width: 20px;">Small</td> <td style="border: none; width: 20px;">Medium</td> <td style="border: none; width: 20px;">Large</td> </tr> </table> | Micro | Small | Medium | Large |
| Micro | Small | Medium | Large | | |

| | | | | |
|---|-----|--|----------------------------|---|
| Annual cost per organisation (excluding one-off) | £-£ | £-£4k | £-£8k | £-£ 12K |
| Impact on Admin Burdens Baseline (2005 Prices) Increase of <input type="text" value="£ 12k"/> | | Decrease of <input type="text" value="£ 0"/> | | Net Impact <input type="text" value="£ (Increase £ 12k)"/> |
| Key: Annual Cost: Constant Prices | | | (Net) Present Value | |

Evidence Base for Summary Sheets

Introduction & Overview

This regulatory impact assessment provides the Government's assessment of the likely regulatory impact of the proposals made in the European Directive 2005/36/EC concerning the recognition of professional qualifications. The IA prepared by the Department of Health covers only the impact of the Directive on the health and social care professions; any potential impact on other professions is a matter for other Departments. The costs set out in this document are provided on a United Kingdom basis since the Directive is UK wide, and relate to the additional costs required of the statutory regulators who operate on a UK basis.

We have been working in close collaboration with all the health and social care regulators, consulting them on policy and taking on board their views where the legislation provides for a choice. All the regulators have been given the chance to comment on the draft of the Department of Health regulations prior to the limited statutory consultation exercise.

We have also worked closely with officials in DIUS who are the lead Department for the UK on the Directive and have attended the Interdepartmental Working Group set up by DIUS. We have also participated in the Implementation Committee set up by the European Commission.

The Directive replaces a number of existing Directives concerning the recognition of seven professions known as the sectoral professions and Directives concerned with the remaining professions, known as the general systems.

The seven sectoral professions are:

Doctors;
Nurses responsible for general care;
Midwives;
Dentists;
Pharmacists;
Vets; and
Architects.

Migrants are guaranteed automatic recognition and registration provided their qualifications are on the agreed lists, which minimises uncertainty for the migrant and reduces work for host member states' regulatory authorities.

The General Systems directives govern other professions (including all of the other regulated health and social care professions, eg opticians, physiotherapists, osteopaths, social workers). There are no common standards of training. Migrants still have the right to have their qualifications recognised in the host member state. However, their training is considered on a case-by-case basis and regulatory authorities can require migrants to choose between taking an aptitude test, or working through an adaptation period before registration. The onus for checking migrants' training standards falls firmly on the regulatory authorities of the host member states.

The European Qualifications (Health and Social Care Professions) Regulations 2007 implement the Directive 2005/36/EC on the recognition of professional qualifications, in relation to health and social care professions. The Directive replaces the previous separate sectoral Directives and the regime for automatic recognition of professional qualifications is substantially unchanged but there are some important changes, notably:

the regime regarding freedom to provide services is extended to the profession of pharmacy and to the general systems health and social care professions; and

certain doctors, dentists, pharmacists, nurses and midwives who do not qualify for automatic recognition of professional qualifications are now subject to the general system regime, which is set out in Chapter 1 of Title III of the Directive, and implemented by the European Communities (Recognition of Professional Qualifications) Regulations 2007.

The Regulations also transpose Directive 2006/100/EC concerning the accession of Bulgaria and Romania into the EU on 1st January 2007.

The Case for Change

First, there will be a reduction in administration due to the Directive replacing all the sectoral and general systems directives, updating them where required. This will be helpful in that all professions will be required to have similar

processes with consequent benefits for migrants who wish to avail themselves of Community rights. The Directive also places, for the first time, a duty on competent authorities to cooperate with each other to supply the information required to ensure patient safety.

Second, the new arrangement regarding temporary provision of services is designed to facilitate the free provision of services throughout Member States while maintaining public/patient safety. It will make the process easier for migrants but will along with the duty of cooperation on competent authorities provide safeguards whereby the regulatory bodies can obtain appropriate information on the migrant. The migrant will be required to complete a short declaration on the first provision of services which is renewable annually.

Intended effect

The intent is to free up movement of health professionals throughout the European Economic Area while making no change to non-EEA nationals' rights to practise in the UK.

Rationale for Government Intervention

Intervention by the Government is required to ensure transposition and to avoid any possible infraction proceedings by the European Commission for not doing so.

Proposals on statutory regulation

The proposals will affect all regulated healthcare professions as well as non-healthcare professions working in the private and public sectors within the United Kingdom and the nominated UK competent authorities who regulate the professionals.

The most direct impact will be on existing regulatory bodies. As competent authorities, they are regarded in regulatory impact terms as part of the public sector. There will be some changes to their processes and they will need to carry out new arrangements in relation to temporary provision of services. There will also be an impact on some individual health professionals. Regulators may decide that they will require certain individuals to be established rather than temporarily registered. This will be determined by the regulator's assessment that the migrant's proposal to provide services cannot be considered as 'temporary or occasional'. Migrants will have the right of appeal should their applications be rejected.

Costs

Estimates of the cost of implementing the recommendations in full are shown below. Additional costs fall to the UK Health and Social Care regulatory bodies only. They relate to the cost of administration of applications for temporary provision of services where the Directive explicitly prohibits the

regulatory bodies charging a registration fee. There will also be a small set up cost for each regulator for setting up the process.

Our assumption is that the total temporary register set up costs for all regulators, including amendments to websites and databases will be in the region of £30k. The costs will be disproportionate for the smaller regulators and those without any previous temporary registration arrangements. These costs will be non-recurrent.

We also estimate that there will be about 400 migrants per annum seeking to register using the temporary provision of services arrangements. Because the regulators are unable to charge a fee to these migrants administrative costs of registering, monitoring and checking details with the migrants authority holding full registration details will take on average about 2 hours per case. At the rate of £15 per hour, the total recurrent annual cost falling to the regulatory bodies will be around £12k per annum. The first year's costs will be around £6K as the Regulation comes into force in October 2007.

Equity and fairness

The Department of Health does not believe that these proposals will result in any disproportionate negative impact on, or disadvantage to, any particular social or ethnic group. Indeed, a more standardised and transparent approach to facilitating migrant movement within the EEA is likely to aid correction of any bias in current processes

A number of these temporary providers may fall into the category of 'small firms.' Our view is that the proposed actions do not have a disproportionate impact upon 'small firms'.

Department of Health
April 2007

Complementary Impact Tests

Use the table below to demonstrate that you have, in pursuit of statutory obligations or other factors (as appropriate), considered any additional impacts of your policy options. If you have annexed the results of those tests to this form, please indicate this.

Ensure that the results of any tests that impact on the cost benefit analysis are contained within the main evidence base.

| Type of test undertaken | Stage reached | Impact? | Results annexed? |
|--------------------------|---------------|---------|------------------|
| Small Firms Impact Test | | Y | See above |
| Competition Assessment | | Y/N | |
| Legal Aid | | Y/N | |
| Sustainable Development | | Y/N | |
| Environment | | Y/N | |
| Health Impact Assessment | | Y/N | |
| Race Equality | | Y | See above |
| Gender Equality | | Y | See above |
| Rural Proofing | | Y/N | |
| Human Rights | | Y/N | |