

TRANSPOSITION NOTE FOR DIRECTIVE 2013/55/EC AMENDING DIRECTIVE 2005/36/EC ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS, TRANSPOSED IN PART BY THE DRIVING AND MOTORCYCLE RIDING INSTRUCTORS (RECOGNITION OF EUROPEAN PROFESSIONAL QUALIFICATIONS) REGULATIONS 2016

The European Union (Recognition of Professional Qualifications) Regulations 2015 (“the 2015 Regulations”) implement in part Directive 2005/36/EC (“the Principal Directive”) on the mutual recognition of professional qualifications as last amended by Directive 2013/55/EU (“the Amending Directive”). They establish rules for the recognition of professional qualifications enabling people from EEA States and Switzerland to gain access to the profession in which they are qualified and to practise that profession under the same conditions as professionals in the United Kingdom where those professions are regulated.

Details of the implementation of the Directive in relation to all regulated professions other than the sectoral professions are contained in the transposition notes for the 2015 Regulations and the European Union (Recognition of Professional Qualifications) Regulations 2007.

The Driving and Motorcycle Riding Instructors Regulations make further provision to implement the Principal Directive as last amended by the Amending Directive in relation to driving and motorcycle riding instructors. This transposition note explains how those provisions partially implement the Directives.

Article in consolidated Directive	Objectives	Implementation of the Directive in relation to driving and motorcycle riding instructors
5	Requires, subject to Articles 6 and 7, member States not to restrict for any reason relating to professional qualifications, the free provision of services on a temporary and occasional basis in another Member State if the service provider is legally established in their Home State for the purpose of pursuing the same profession there.	<p>Driving Instructors Regulation 2 amends Part V of the Road Traffic Act 1988 to enable driving instructors to provide services in Great Britain on a temporary and occasional basis if they are legally established in their Home State. This is achieved by dividing the current register of approved driving instructors (“the Register”) into two parts. Instructors who are entitled to give instruction on a temporary and occasional basis pursuant to the 2015 Regulations will be entered in Part 2 of the register.</p> <p>The new section 123(1)(aa) of the Road Traffic Act 1988 allows persons in Part 2 of the Register to give paid instruction in the driving of a motor car in accordance with a right conferred by Part 2 of the 2015 Regulations.</p> <p>The new section 123(6A) of the Road Traffic Act 1988 introduces a statutory defence to the offence of giving paid instruction without displaying an appropriate badge or</p>

		<p>certificate for instructors who are giving instruction in accordance with a right conferred on them by the 2015 regulations and have not yet received the appropriate certificate.</p> <p>Motorcycle Riding Instructors Regulation 7 amends Part V of the Motor Vehicles (Driving Licences) Regulation 1999 ("The 1999 Regulations") to enable motorcycle riding instructors from other members States to provide services in Great Britain on a temporary and occasional basis if they are legally established in their Home State. The new regulation 60A enables instructors from other member States to instruct persons riding A1 motorcycles and mopeds on behalf of an approved training body. The new regulations 65A enables instructors from other member States to instruct provisional licence holders riding A2 or A3 motorcycles on behalf of an approved training body.</p>
6	<p>Requires host States to exempt service providers established in another State from requirements which it places on professionals established in its territory relating to authorisations and registration with a public social security body. However, in order to facilitate the application of disciplinary provisions, a host State may provide either for automatic temporary registration with or pro-forma membership of a professional organisation or body, subject to certain conditions.</p>	<p>Driving Instructors Regulation 2(4)(g) inserts a new section 125(4A) into the Road Traffic Act 1988. This provides that a person who submits a declaration to the Registrar or the appropriate Northern Ireland officer in accordance with regulations 15 and 16 of the European Union (Recognition of Professional Qualifications) regulations 2015 that entitles them to provide services as a driving instructor in the United Kingdom must be entered in Part 2 of the Register.</p> <p>Motorcycle Riding Instructors Regulation 7(4) inserts a new regulation 60A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to conduct training in the instruction of A1 motorcycles or mopeds if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p> <p>Similarly Regulation 7(9) inserts a new regulation 65A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to instruct</p>

		<p>provisional licence holders to ride A2 and Am motorcycles if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p>
<p>7(1)</p>	<p>Member States may require that a service provider informs the competent authority in a host State in a written declaration to be made in advance with insurance or other details to be renewed once a year.</p> <p>Before the first provision of services or if there is a material change in the situation substantiated by the documents, Member States may require that the declaration be accompanied by documents listed in this subparagraph of the Article.</p>	<p>Driving Instructors</p> <p>Regulation 2(4)(g) inserts a new section 125(4A) into the Road Traffic Act which requires driving instructors from other member States who are seeking to provide services in the United Kingdom on a temporary and occasional basis to make a declaration to the Registrar in accordance with regulations 15 and 16 of the European Union (Recognition of Professional Qualifications) regulations 2015.</p> <p>Regulation 2(5)(b) inserts a new section 126(3A) into the Road Traffic Act 1988 which has the effect of requiring service providers to make an annual declaration to the Registrar in accordance with regulation 15 of the European Union (Recognition of Professional Qualifications) regulations 2015.</p> <p>Motorcycle Riding Instructors</p> <p>Regulation 7(4) inserts a new regulation 60A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to conduct training in the instruction of A1 motorcycles or mopeds if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p> <p>Similarly Regulation 7(9) inserts a new regulation 65A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to instruct provisional licence holders to ride A2 and Am motorcycles if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p> <p>Regulation 60A(c) has the effect of requiring instructors to provide an annual declaration.</p>

7(2a)	Requires that submission of a declaration shall entitle the service provider to have access or exercise that activity in the entire territory of the Member State concerned.	<p>Driving Instructors Regulation 2(4)(g) inserts a new section 125(4) into the Road Traffic Act 1988 which provides that that driving instructors from other Member States who give an appropriate declaration to either the Registrar (who maintains the Register of approved driving instructors in Great Britain) or the appropriate Northern Ireland officer (who maintains the register of approved driving instructors in Northern Ireland) must be entered into Part 2 of the Register.</p> <p>Motorcycle Riding Instructors Regulation 7(4) inserts a new regulation 60A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to conduct training in the instruction of A1 motorcycles or mopeds if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p> <p>Similarly Regulation 7(9) inserts a new regulation 65A into the 1999 Regulations. This allows approved training bodies to authorise instructors from other Member States to instruct provisional licence holders to ride A2 and Am motorcycles if that person has made a declaration to the Secretary of State or appropriate Northern Ireland officer in accordance with regulation 15 and 16 of the 2015 Regulations.</p>
7(3)	Requires the service to be provided under the professional title of the State where the provider is established except for the sectoral professions where the host State title must be used.	<p>Driving Instructors Regulation 8(7) amends the Motor Cars (Driving Instruction) Regulations 2005 (“the 2005 Regulations”). The new Regulation 18A provides that the official title for use by a person whose name is in Part 2 of the Register shall be the title used in that person’s Home State. Regulation 18A(2) prescribes the form of badge that will be issued to instructors in Part 2 of the Register. The new Regulation 19A prescribes the form of badge that will be issued to instructors in Part 2 of the Register.</p>

		<p>The definition of Approved Driving Instructor in Regulation 2(1) of the 2005 Regulations is amended so that it only applies to instructors in Part 1 of the Register.</p> <p>Motorcycle Riding Instructors</p> <p>Regulation 7(4) inserts a new regulation 60A into the 1999 Regulations. Regulation 60A(4)(a) provides that motorcycle instructors providing instruction in the riding of A1 motorcycles and mopeds on temporary and occasional bas shall be known by the official title used in the State that is the person's Home State.</p> <p>Similarly Regulation 7(9) inserts a new regulation 65A into the 1999 Regulations. Regulation 65A(5) provides that motorcycle instructors providing instruction in the riding of A2 and A3 motorcycles on a temporary and occasional bas shall be known by the official title used in the State that is the person's Home State.</p>
12	<p>Requires Member States to adopt the concept of equal treatment of qualifications. This is defined in terms of equal treatment of either evidence of formal qualifications or successful completion of training or provisions in the home state conferring acquired rights.</p>	<p>Driving Instructors</p> <p>Regulation 2(4)(f) amends the Road Traffic Act 1988 by inserting a new section 125(3A) which exempts qualified driving instructors from other Member States from the requirement to pass the qualifying tests and, where appropriate, to hold an emergency control certificate when making an application to have their name entered in Part 1 of the Register.</p> <p>Motorcycle Riding Instructors</p> <p>Regulation 7(3) inserts a new regulations 61(3A) into the 1999 Regulations. This enables approved training bodies to authorise motorcycle riding instructors from other members States who establish themselves in Great Britain to give instruction in the riding of A1 motorcycles and mopeds without having completed the Secretary of State's training course for certified instructors or being trained by a Certified Instructor who has completed that course.</p> <p>Regulation 7(9) inserts a new regulation 65(3A) into the 1999 Regulations. This enables approved training bodies to</p>

		<p>authorise motorcycle riding instructors from other members States who establish themselves in Great Britain to give instruction to provisional licence holders in the riding of A2 and A3 motorcycles without having completed the Secretary of State's training course for direct access instructors.</p>
<p>52</p>	<p>Requires that a Member State may not reserve the use of a professional title to the holders of professional qualifications unless it has notified the association or organisation in question to the Commission and other Member States.</p>	<p>Driving Instructors Qualified Driving instructors from other Member States are entitled to apply to have their name entered into Part 1 of the Register pursuant to Section 125(3A) of the Road Traffic Act 1988. All persons whose name is entered in Part 1 of the Register are entitled to use the title "approved driving instructor" in accordance with regulation 18 of the 2005 Regulations.</p> <p>Motorcycle Riding Instructors Motorcycle riding instructors from other members States who establish themselves in Great Britain and are authorised by an approved training body as a certified instructor shall be entitled to use the same title and badge as all other certified instructors established in Great Britain pursuant to regulation 60 of the 1999 Regulations.</p> <p>Motorcycle riding instructors from other members States who establish themselves in Great Britain and are authorised by an approved training body as a certified direct access instructor shall be entitled to use the same title and badge as all other direct access instructors established in Great Britain pursuant to regulation 65 of the 1999 Regulations.</p>