

**TRANSPOSITION NOTE FOR DIRECTIVE 2013/55 AMENDING DIRECTIVE 2005/36 ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS, TRANSPOSED IN PART BY THE DRIVING AND MOTORCYCLE INSTRUCTORS (RECOGNITION OF EUROPEAN PROFESSIONAL QUALIFICATIONS) REGULATIONS (NORTHERN IRELAND) 2017**

The European Union (Recognition of Professional Qualifications) Regulations 2015 (“the Regulations of 2015”) 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 Regulations of 2015 and the European Union (Recognition of Professional Qualifications) Regulations 2007.

The Driving and Motorcycle Instructors (Recognition of Professional Qualifications) Regulations (Northern Ireland) 2017 make further provision to implement the Principal Directive as last amended by the Amending Directive in relation to driving and motorcycle 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 instructors and motorcycle 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.	Regulation 3 amends Part V of the Road Traffic (Northern Ireland) Order 2007 to enable driving and motorcycle instructors to provide services in Northern Ireland 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 and approved motorcycle instructors (“the register”) into two parts. Instructors who are entitled to give instruction on an occasional basis pursuant to the Regulations of 2015 will be entered in Part 2 of the register.

		<p>The amendments to Article 48(1) of the Road Traffic (Northern Ireland) Order 2007 allow persons in Part 2 of the register to give paid instruction in the driving of a car or the riding of a motorcycle in accordance with a right conferred by Part 2 of the European Union (Recognition of Professional Qualifications) Regulations 2015.</p> <p>The new article 49(5) of the Road Traffic (Northern Ireland) Order 2007 introduces a statutory defence to the offence of giving paid instruction without displaying the appropriate evidence of registration (badge or certificate) for instructors who are giving instruction in accordance with a right conferred on them by Part 2 of the European Union (Recognition of Professional Qualifications) Regulations 2015 where they have not yet received the appropriate certificate.</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>Regulation 3(6) inserts new articles 52(2A) and (2B) into the Road Traffic (Northern Ireland) Order 2007. These provide that a person who submits a declaration to the Registrar or to the appropriate officer in Great Britain 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 or motorcycle instructor in the United Kingdom must be entered in Part 2 of the Register.</p>
7(1)	<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>Regulation 3(6) inserts new article 52(2A) into the Road Traffic (Northern Ireland) Order 2007 which requires driving instructors and motorcycle 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</p>

		European Union (Recognition of Professional Qualifications) Regulations 2015.
7(2)	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.	Regulation 3(7) inserts a new article 55(6) into the Road Traffic (Northern Ireland) Order 2007 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.
7(2)(a)	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.	Regulation 3(6) inserts new articles 52(2A) and (2B) into the Road Traffic (Northern Ireland) Order 2007, which provide that driving instructors and motorcycle instructors from other Member States who give an appropriate declaration to either the Registrar (who maintains the Register of approved driving instructors and approved motorcycle instructors in Northern Ireland) or the appropriate officer in Great Britain (who maintains the register of approved driving instructors in Great Britain) must be entered into Part 2 of the Register .
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.	Regulation 6(6) amends the Motor Vehicles (Driving Instructions) Regulations (Northern Ireland) 2010 (“the 2010 Regulations”), introducing new regulation 14(1A) which 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 persons Home State. Regulation 14(3) prescribes the form of certificate that will be issued to driving or motorcycle instructors in Part 2 of the Register.  The definitions of Approved Driving Instructor and Approved Motorcycle Instructor in Regulation 2(1) of the 2010 Regulations are amended so that these professional titles only apply to instructors in Part 1 of the Register.

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>Regulation 6(4)(b) amends the 2010 Regulations by inserting a new regulation 4(1A) which exempts qualified driving instructors or motorcycle instructors from other Member States from the requirement to pass the qualifying tests when making an application to have their name entered in Part 1 of the Register.</p>
52	<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>Qualified driving instructors and motorcycle instructors from other Member States are entitled to apply to have their name entered into Part 1 of the Register pursuant to regulation 4(1A) of the 2010 Regulations. All persons whose name is entered in Part 1 of the Register are entitled to use the title "approved driving instructor" or "approved motorcycle instructor" as the case may be in accordance with regulation 14 of the 2010 Regulations.</p>