



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 3

UK MARKET ACCESS: PROFESSIONAL QUALIFICATIONS AND REGULATION

26 Exception from section 24 where individual assessment offered

- (1) Section 24(2) does not apply in a case where the qualified UK resident—
 - (a) is able to seek, or has sought, to be able to practise the profession in the relevant part by way of a process that satisfies the requirements of this section, and
 - (b) has not lawfully practised the profession in the relevant part at any time before being able to seek that ability by way of that process.
- (2) The process must have the result that, if the regulatory body so decides on an application by the qualified UK resident, the resident becomes able to practise the profession—
 - (a) despite the limitation referred to in section 24(1), and
 - (b) without further assessment of the resident's qualifications, experience, knowledge or skills (except in connection with the sort of provision referred to in section 24(3)).
- (3) The process must require the application to be dealt with in accordance with the principles set out in subsection (4).
- (4) The principles are that, in connection with the ability to practise a profession in the relevant part—
 - (a) qualifications or experience obtained in any other part of the United Kingdom should have the same effect as qualifications or experience obtained in the relevant part, to the extent that the former demonstrate the like knowledge and skills to substantially the same standard as the latter;
 - (b) the applicant should be able to rely on any qualifications or experience obtained in any other part of the United Kingdom in order to demonstrate the

Changes to legislation: There are currently no known outstanding effects for the United Kingdom Internal Market Act 2020, Section 26. (See end of Document for details)

- necessary knowledge and skills, so far as those qualifications or experience are reasonably capable of demonstrating them;
- (c) to the extent that the applicant cannot, on application of the principles set out in paragraphs (a) and (b), demonstrate the necessary knowledge and skills to the satisfaction of the regulatory body, the applicant should (subject to subsection (5)) have an opportunity to do so by way of a test or assessment the demands of which are proportionate to the deficiency;
 - (d) if the applicant can, on application of the principles set out in paragraphs (a) to (c), demonstrate the necessary knowledge and skills to the satisfaction of the regulatory body, the regulatory body should decide as mentioned in subsection (2).
- (5) The process may, without contravening the principle set out in subsection (4)(c), allow the regulatory body in a case to which this subsection applies to decline the application without the applicant first being offered a test or assessment as described in that principle.
- (6) Subsection (5) applies if the test or assessment would (having regard to the knowledge and skills demonstrated by the applicant in accordance with the principles set out in subsection (4)(a) and (b)) be similarly demanding to obtaining so much of the usual qualifications or experience as the applicant lacks.
- (7) The process must require the regulatory body to inform the applicant of its decision within a reasonable time from the receipt of the application.
- (8) Subsection (1) ceases to apply in the case of an applicant if, before the regulatory body informs the applicant of its decision—
- (a) the regulatory body accepts in writing, or
 - (b) a court determines in legal proceedings,
- that the regulatory body has failed to satisfy the requirement referred to in subsection (7).
- (9) A regulatory body that administers a process to which this section applies must publish information about—
- (a) the procedure for making an application within the process, and
 - (b) the way in which the principles set out in subsection (4) will be given effect in the context of the profession concerned.

But a failure to comply with this duty does not mean that the process does not comply with the requirements of this section.

- (10) In this section—
- “the usual qualifications or experience” means the qualifications or experience that are, under the provision that falls within section 24(1), required in order to be able to practise the profession concerned in the relevant part;
 - “the necessary knowledge and skills” means the knowledge and skills that are demonstrated by the usual qualifications or experience;
 - “regulatory body” means—
 - (a) the person, if any, responsible for determining whether a person has the qualifications or experience referred to in section 24(1), or
 - (b) if there is no such person, the responsible administration;
 - “responsible administration” means—

Changes to legislation: There are currently no known outstanding effects for the United Kingdom Internal Market Act 2020, Section 26. (See end of Document for details)

- (a) if the relevant part is Scotland and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament, or
 - (ii) is provision which could be made in subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone,the Scottish Ministers;
- (b) if the relevant part is Wales and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of Senedd Cymru if contained in an Act of Senedd Cymru (assuming that any consent by a Minister of the Crown were given), or
 - (ii) is provision which could be made in subordinate legislation by the Welsh Ministers acting alone,the Welsh Ministers;
- (c) if the relevant part is Northern Ireland and the provision that falls within section 24(1)—
 - (i) would be within the legislative competence of the Northern Ireland Assembly, and would not require the consent of the Secretary of State, if contained in an Act of that Assembly,
 - (ii) is contained in, or was made under, Northern Ireland legislation, and would be within the legislative competence of the Northern Ireland Assembly, and would require the consent of the Secretary of State, if contained in an Act of that Assembly, or
 - (iii) is provision which could be made in subordinate legislation by the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department,a Northern Ireland department;
- (d) in any other case, the Secretary of State.

Commencement Information

II S. 26 in force at 31.12.2020 by S.I. 2020/1621, reg. 2(c)

Changes to legislation:

There are currently no known outstanding effects for the United Kingdom Internal Market Act 2020, Section 26.