
STATUTORY INSTRUMENTS

1996 No. 2374

The European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 1996

PART IV

REQUIREMENTS OF EVIDENCE OF PROFESSIONAL EXPERIENCE, ADAP TATION PERIODS AND APTITUDE TESTS

Meaning of evidence of professional experience, adaptation period and aptitude test

15.—(1) Evidence of professional experience means evidence of the actual and lawful pursuit in a relevant State of a profession corresponding to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom.

(2) An adaptation period means, in relation to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom, a period of pursuit of the profession under the supervision of a qualified member of the profession, with or without the undertaking of further education and training with the aim of assessing the ability of the migrant to pursue that profession in the United Kingdom.

(3) An aptitude test means, in relation to the regulated profession which the migrant seeks to take up or pursue in the United Kingdom, a test of the migrant's professional knowledge conducted by the designated authority for the profession with the aim of assessing the ability of the migrant to pursue that profession in the United Kingdom.

Choice of evidence of professional experience, adaptation period or aptitude test

16.—(1) A designated authority may not in any case in which a migrant had made application to take up or pursue a regulated profession require the migrant to comply with more than one of the following requirements, that is to say—

- (i) to produce evidence of professional experience;
- (ii) successfully to complete an adaptation period;
- (iii) to take and pass an aptitude test.

(2) A designated authority wishing to apply to a migrant a requirement either to complete an adaptation period or to take an aptitude test shall, except in a case provided for as an exception by Regulation 6(2) of, and Schedule 3 to, the First General System Regulations or by paragraph (3) below, afford the migrant the right to choose between them.

(3) In the case of a profession listed in the first column of the table in Schedule 7 the requirement shall be as specified in the second column of that table.

Circumstances in which evidence of professional experience may be required

17.—(1) Evidence of professional experience may only be required in a case where the duration of education and training adduced by a migrant in support of his application is at least one year less than the duration required of holders of UK Diplomas.

(2) Paragraph (1) notwithstanding, evidence of professional experience may not be required in a case in which the migrant holds either—

- (i) a First General System Diploma or
- (ii) a Second General System Diploma evidencing education and training of the kind described in Regulation 5(1)(a) above

if the UK Diploma or evidence of education and training required by the designated authority attests to one of the courses of education and training listed in Part II of Schedule 5.

Conditions affecting the requirement of evidence of professional experience

18.—(1) The period of professional experience evidence of which may be required of a migrant shall not exceed the shorter of—

- (i) in a case in which the shortfall between the duration of the education and training required by the designated authority and the duration of the education and training evidence of which has been adduced by the migrant (“the shortfall”) relates to a post-secondary course, or to a period of probationary practice carried out under the supervision of a qualified member of the profession and ending with an examination, or to both, a period twice the duration of the shortfall;
- (ii) in a case in which the shortfall relates to practice of the profession acquired with the assistance of a qualified member of the profession, a period equal to the shortfall;
- (iii) four years.

(2) For the purposes of paragraph (1) above, in a case in which the UK Diploma evidences a course of education and training listed in Part II of Schedule 5 and in which the migrant’s claim to recognition rests on paragraphs 9 of Schedule 4, the duration of the education and training of which evidence has been adduced by the migrant shall be taken to be the duration of the post-secondary education and training of which it is the recognised equivalent.

(3) In a case in which, during the previous ten years, the migrant has pursued the profession either full-time for at least two years or part-time for an equivalent period in another relevant State which does not regulate the profession, the period of professional experience of which evidence may be required under paragraph (1) shall be reduced by the duration of that pursuit.

Circumstances in which an adaptation period or an aptitude test may be required

19.—(1) In a case falling within Regulation 12 and in which a migrant’s claim to recognition of his right to practice depends upon his ability to meet the requirements of paragraph 1 or 4 of Schedule 4, a designated authority may only apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either

- (i) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom are broadly comparable, the education and training which the migrant received in relation to theoretical or practical matters, taken as a whole, differs substantially in coverage from that which is evidenced by the UK Certificate; or
- (ii) the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom differ and those differences are reflected in substantial differences in education and training in relation to theoretical or practical matters.

(2) In a case falling within Regulation 12 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 5 of Schedule 4, a designated authority may apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

20.—(1) In a case falling within Regulation 11 other than one in which a migrant's claim for recognition depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 4, a designated authority may only apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either—

- (i) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in the United Kingdom are broadly comparable, the education and training relating to theoretical, or practical, or theoretical and practical matters received by the migrant differs substantially in coverage from that which is evidenced by the required UK Diploma; or
- (ii) in a case in which the migrant meets the requirements of paragraph 1(a) or (b) of Schedule 4, one or more of the regulated professional activities which form the profession in the United Kingdom is or are not included in the regulated profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters evidenced by the Diploma held by the migrant on the one hand and the required UK Diploma on the other;
- (iii) in any other case, one or more of the regulated professional activities which form the profession in the United Kingdom is or are not included in the profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters of which evidence is held by the migrant on the one hand and evidenced by the required UK Diploma on the other.

(2) In a case falling within Regulation 11 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 4, a designated authority may apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

Conditions affecting the requirement to complete an adaptation period

21.—(1) The adaptation period shall be the subject of an assessment.

(2) Subject to paragraph (3) below, the designated authority shall lay down the detailed rules governing

- (i) the length of the period and
- (ii) the form of the assessment

and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall notify the migrant of the rules in advance of the migrant's exercise of that choice.

(3) The adaptation period shall not exceed

- (i) 2 years in duration, in a case falling within Regulation 19;
- (ii) 3 years in duration, in a case falling within Regulation 20.

Conditions affecting the requirement to take an aptitude test

22.—(1) A designated authority wishing to apply to a migrant the requirement to take an aptitude test shall draw up a list of subjects which, on the basis of a comparison between the education and

training required for the practice of the profession by a holder of a UK Diploma or, as the case may be, UK Certificate and the education and training received by the migrant have not been covered by the education and training evidence of which has been produced by the migrant and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall notify the migrant of the contents of the list in advance of his exercise of his choice.

(2) The subjects listed pursuant to paragraph (1) above may cover theoretical knowledge and practical skills required for the pursuit of the profession.

(3) Subject to paragraphs (4) and (5) below, the detailed application of the aptitude test shall be determined by the designated authority and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall be notified to the migrant in advance of his exercise of his choice.

(4) The aptitude test shall only consist of

- (i) subjects selected from the list drawn up pursuant to paragraph (1), knowledge of which is essential to the pursuit of the profession within the United Kingdom; and
- (ii) if required, a test of the migrant's knowledge of the professional rules applicable to the activities in question in the United Kingdom.

(5) In setting the aptitude test the designated authority shall take appropriate account of the migrant's status as a qualified professional in the home relevant State.