

2002 No. 2842

ARCHITECTS

The Architects' Qualifications (EC Recognition) Order 2002

<i>Made</i> - - - -	<i>20th November 2002</i>
<i>Laid before Parliament</i>	<i>2nd December 2002</i>
<i>Coming into force</i>	<i>23rd December 2002</i>

At the Court at Buckingham Palace, the 20th day of November 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 2(2) of the European Communities Act 1972(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1. This Order may be cited as the Architects' Qualifications (EC Recognition) Order 2002 and shall come into force on 23rd December 2002.

Amendment of Act

2. The Architects Act 1997(b) is amended in accordance with Articles 3 to 6 below.

Registration: general

3.—(1) Section 4 (registration: general) is amended as follows.

(2) After subsection (2) insert—

“(2A) Subsection (2B) applies where it appears to the Board that the applicant is a national of an EEA State who—

- (a) holds a qualification recognised in an EEA State, other than the United Kingdom, as equivalent to a recognised EEA qualification, an established EEA qualification or a relevant EEA certificate (within the meaning of section 5); or
- (b) has undergone significant training or has gained significant experience in an EEA State, other than the United Kingdom.

(2B) Where this subsection applies the Board, in determining the standard of competence of the applicant under subsection (1)(b)—

(a) 1972 (c.68). Section 2(2) of the 1972 Act includes power to make provision in relation to the European Economic Area by virtue of section 2(5) of the European Economic Area Act 1993 (c.51).

(b) 1997 (c.22).

- (a) shall take into account the qualification, training or experience; and
- (b) may not require the applicant to pass a prescribed examination in architecture unless the Board considers it appropriate in the circumstances of the applicant's case."

Registration: further procedural requirements

4.—(1) Section 6 (registration: further procedural requirements) is amended as follows.

(2) Substitute for subsection (4):

“(4) The Registrar shall serve on an applicant written notice of the decision on his application.

(4A) A notice under subsection (4) shall be served—

- (a) in the case of an application under section 4(1)(a) or 5 or to which section 4(2B) applies, within three months of his application being made; and
- (b) in all other cases, within six months of his application being made.

(4B) Notice of a refusal in the case of an application under section 5 or to which section 4(2B) applies, shall state reasons for the refusal.”

Appeals

5. After section 22 (appeals) add:

“**22A.**—(1) A person may appeal to the High Court or the Court of Session if he has made an application under section 5 or to which section 4(2B) applies and is aggrieved by—

- (a) the refusal of his application; or
- (b) the failure of the Registrar to comply with section 6(4A).

(2) In the case mentioned in subsection (1)(a), an appeal must be brought within three months from the date on which notice of the refusal is served.

(3) In the case mentioned in subsection (1)(b), an appeal must be brought within three months from the end of the period specified in section 6(4A)(a).

(4) On an appeal under this section the Court may make any order which appears appropriate.

(5) No appeal shall lie from a decision of the Court on an appeal under this section.”

Interpretation

6.—(1) In section 25 (interpretation), (which becomes subsection (1)), after the words “signed at Brussels on 17th March 1993” insert—

“, or Switzerland”.

(2) At the end insert—

“(2) Any person who is not a national of an EEA State, but who is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated, for the purposes of access to the profession of architecture, no less favourably than a national of such a State, shall be treated for the purposes of this Act as if he were such a national.”

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order, made under section 2(2) of the European Communities Act 1972, implements Directive 2001/19/EC as regards architects. Directive 2001/19/EC amends Council Directive 85/384/EEC on the mutual recognition of diplomas in architecture. This Order amends the Architects Act 1997 and comes into force on 23rd December 2002.
2. Article 3 of the Order amends section 4 of the Act. It requires the Architects Registration Board to take account of the qualifications, training and experience described in Article 6 of Council Directive 85/384/EEC, as inserted by Article 11 of Directive 2001/19/EC. Article 6, as inserted, provides that where an application for registration is made by an EEA National who either has qualifications obtained in a non EEA State which have been recognised in an EEA State, or has undergone training or has experience in an EEA State, the qualifications, training or experience shall be taken into account in determining his application for registration. Further, Article 3 of the Order provides that the Board may not require that applicant to pass a prescribed examination in architecture, unless it considers it appropriate in that applicant's case.
3. Article 4 of the Order amends section 6 of the Act. It requires the Registrar, in cases of refusal of an application made under section 5 or to which section 4(2B) applies, to include a statement of the reasons for the decision, as required by Article 6A of Council Directive 85/384/EEC, as inserted by Directive 2001/19/EC, Article 11.
4. Article 5 of the Order inserts a new section 22A into the Act. It provides a right of appeal to persons whose applications for registration under section 5 or to which section 4(2B) applies are refused or not determined by the Registrar within the stipulated period, as required by Article 6A of Council Directive 85/384/EEC, as inserted by Article 11 of Directive 2001/19/EC.
5. Article 6 of the Order amends section 25 of the Act. It refers to the Agreement between the EC and Switzerland on the free movement of persons which came into force on 1 June 2002. Article 6 also refers to rights arising under Article 11 of Council Regulation (EEC) 1612/68 (O.J. No. L257, 19.10.1968, p.2) as amended by Council Regulation (EEC) 312/76 (O.J. No. L39, 14.2.1976, p.2), and Articles 39, 43 and 49 of the Treaty of Rome (as amended), which affect the pursuit of their profession not only by nationals of member States of the European Economic Area but also by their spouses and certain of their dependants.
6. A transposition note setting out how the main relevant elements of the Directive are transposed into law has been placed in the Libraries of both Houses of Parliament. Copies are also available from Hilary Pugh, Building Regulations Division, ODPM, 18/A Portland House, Stag Place, London, SW1P 5LP (Tel: 020 7944 4718; Fax: 020 7944 5739; Email: hilary.pugh@odpm.gsi.gov.uk).

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