
STATUTORY INSTRUMENTS

2002 No. 2934

The European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002

PART 5

ANCILLARY PROVISIONS

Evidence from competent authorities

23.—(1) A designated authority shall, in connection with any matter requiring to be established pursuant to Parts 3 and 4, accept as sufficient evidence thereof the documents duly issued by a competent authority of the appropriate relevant State for the purpose of attesting such matters.

(2) A designated authority which—

- (a) requires of an applicant for authorisation to practice proof that he is of good character or repute, or that he has not been declared or adjudged bankrupt, or had a bankruptcy or similar order made against him or in relation to his estate; or
- (b) suspends or prohibits practice in the event of serious professional misconduct or the commission of a criminal offence;

shall, in respect of a migrant, accept as sufficient evidence in relation to the foregoing the documents duly issued by the competent authorities of the home relevant State showing, in the case of (a), that the relevant conditions are met, or, in the case of (b), that the migrant has committed no such misconduct or offence.

(3) In any case in which the competent authorities do not issue such documents as may be required under paragraph (2), the designated authority shall, subject to paragraph (4), accept in the place of such documents a declaration or oath or solemn declaration to the required effect, made by the migrant before a competent judicial or administrative authority or (where appropriate) a notary or duly qualified professional body of the home relevant State.

(4) A declaration for the purposes of paragraph (3) shall only be required to be accepted if it is accompanied by written confirmation of its authenticity issued by the authority, notary or body.

(5) A designated authority which requires of persons wishing to practise a statement of physical or mental health, shall accept as sufficient evidence thereof the documents required for such a purpose in the home relevant State.

(6) In any case in which the competent authority of the migrant's home relevant State does not impose the requirement referred to in paragraph (5), the designated authority shall accept a statement issued by a competent authority there which corresponds to the statement issued for that purpose in the United Kingdom.

(7) A designated authority may require any document, statement or certificate referred to in paragraph (2), (3), (5) or (6) to be presented no more than three months after the date of its issue.

(8) Where a designated authority requires applicants to take an oath or make a solemn declaration, the form of which is such that it cannot be taken or made by nationals of another relevant State, it shall ensure that an appropriate equivalent form of oath or declaration is available for those nationals.

(9) A designated authority which requires of an applicant for authorisation to practise proof of financial standing shall, in respect of a migrant, regard certificates issued by banks in the home relevant State as equivalent to those issued by banks in the United Kingdom.

(10) Subject to paragraph (11) a designated authority which requires proof that an applicant for authorisation to practise is insured against the financial risks arising from the applicant's professional liability shall in respect of a migrant accept certificates issued by insurance undertakings of other relevant States as equivalent to those issued by insurance undertakings in the United Kingdom.

(11) Any certificate referred to in paragraph (10) shall state that the insurer has complied with the laws and regulations in force in the United Kingdom regarding the terms and extent of cover and shall be presented no more than three months after the date of issue.

Use of professional title

24.—(1) A migrant who has been granted authorisation to practise a regulated profession pursuant to these Regulations shall have the right to use—

- (a) the professional title and designatory letters applicable to that profession in the United Kingdom; and
- (b) the lawful academic title (and where appropriate the abbreviation thereof) acquired by him in the relevant State in which he qualified and in the language of that State.

(2) Where the migrant makes use of the possibility provided for in sub-paragraph (1)(b), the designated authority may require that the title shall be followed by the name and location of the establishment or examining board which awarded it.

(3) Where the migrant makes use of the possibility provided for in sub-paragraph (1)(a) of this Regulation, and either—

- (a) the professional title or designatory letters appear in Part 2 of Schedule 1 to the First General System Regulations or Part 2 of Schedule 2 to these Regulations; or
- (b) they do not so appear but the profession is regulated by a professional association

he shall only be entitled to use the professional title or designatory letters on proof of membership of the professional association.

(4) Where membership of a professional association is subject to any qualification requirements, such requirements may be applied to a migrant whose evidence of education and training satisfies the relevant provisions of Schedule 4 only so far as they are consistent with the provisions of these Regulations.

Decisions of designated authorities and appeals

25.—(1) The designated authority to which a migrant applies for authorisation to practise shall consider the migrant's application as soon as is reasonably practicable, and shall notify him of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

(2) The migrant may appeal—

- (a) against the decision of the designated authority referred to in paragraph (1); or
- (b) in a case in which the period of four months mentioned in paragraph (1) has expired without the notification referred to, in respect of the failure of such authority to make a decision

to the appeal body for the profession provided that such appeal is lodged within three months of the notification to him of the designated authority's decision, or of the expiry, without a decision being notified to him, of the period laid down in paragraph (1) or thereafter with leave of the appeal body.

(3) A migrant who has a right of appeal under this Regulation and, in respect of the same issue, a right of appeal under any law, regulation or administrative provision or, as the case may be, rules governing a profession or professional association may not exercise the two rights separately but may take advantage of whichever right of appeal is, in any respect, the more favourable to him.

(4) The appeal body for a profession may, for the purpose of determining any appeal under these Regulations against the decision of a designated authority—

- (a) give any authorisation to practise and impose any condition which the designated authority could give or impose in relation to that profession; or
- (b) remit the matter to the designated authority with such directions as the appeal body sees fit.

(5) Without prejudice to any powers of the Court of Session in Scotland to regulate the proceedings of itself and those of the sheriff courts but subject always to paragraph (6), an appeal body in England and Wales or Northern Ireland may make rules of procedure governing the hearing and determination of any appeal under these Regulations against the decision of a designated authority. Such rules may make different provision for different cases.

(6) In the case of a migrant exercising the composite right described in paragraph (3), the rules of procedure governing the hearing and determination of the appeal shall apply subject to any modification necessary to give effect to the more favourable provision.

Information from designated authorities and competent authorities

26.—(1) Designated authorities shall provide the Secretary of State with such information (including statistical information) as he may require concerning applications made and decisions taken under these Regulations.

(2) Any authority, body or person who is the competent authority in respect of information or evidence sought by the holder of a UK qualification in support of his application to practise a profession in another relevant State which regulates that profession shall, as soon as is reasonably practicable following the request of the holder, produce to the holder such information and evidence as the holder reasonably requires to that end.

Revocation

27. The following Regulations are hereby revoked—

- (a) the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 1996(1);
- (b) the European Communities (Recognition of Professional Qualifications) (Second General System) (Amendment) Regulations 1999(2); and
- (c) the European Communities (Recognition of Professional Qualifications) (Second General System) (Amendment) Regulations 2001(3).

(1) S.I. 1996/2374.

(2) S.I. 1999/67.

(3) S.I. 2001/200.