

2002 No. 3051

PROFESSIONAL QUALIFICATIONS

The European Communities (Recognition of Professional Qualifications) (Amendment) Regulations 2002

Made - - - - - *11th December 2002*

Laid before Parliament *11th December 2002*

Coming into force - - *1st January 2003*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to recognition of higher-education diplomas or formal qualifications required for the pursuit of professions or other occupations, in exercise of the powers conferred on her by that provision hereby makes the following regulations—

Citation and commencement

1.—(1) These Regulations may be cited as the European Communities (Recognition of Professional Qualifications) (Amendment) Regulations 2002.

(2) These Regulations come into force on 1st January 2003.

Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 1991

2. The European Communities (Recognition of Professional Qualifications) Regulations 1991(c) shall be amended as set out in the Schedule.

Melanie Johnson,
Parliamentary Under-Secretary of State,
for Competition, Consumers and Markets,
Department of Trade and Industry

11th December 2002

(a) S.I. 1989/1327. Under section 57 of the Scotland Act 1998 (1998 c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in relation to devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by her as regards Scotland.

(b) 1972 c. 68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51), regulations under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183). By virtue of the European Communities (Definition of Treaties) (Agreement between the European Communities and its Member States and the Swiss Confederation on the Free Movement of Persons) Order 2000 (S. I. 2000/3269) the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons, signed at Brussels on 21st June 1999, is to be regarded as a Community Treaty as defined in section 1(2) of the European Communities Act 1972.

(c) S.I. 1991/824; Regulation 4 and Schedule 3 were amended, and Schedule 1 substituted, by the European Communities (Recognition of Professional Qualifications) (Amendment) Regulations 2000 (S.I. 2000/1960). Schedule 1 has subsequently been amended by the Health Professions Order 2001 (Consequential Amendments) Order 2002 (S.I. 2002/880) and the Nursing and Midwifery Order 2001 (Consequential Amendments) Order 2002 (S.I. 2002/881).

AMENDMENTS TO THE EUROPEAN COMMUNITIES (RECOGNITION OF PROFESSIONAL QUALIFICATIONS) REGULATIONS 1991

1. The European Communities (Recognition of Professional Qualifications) Regulations 1991 (“the regulations”) shall be amended as follows.
2. Wherever they occur in the regulations—
 - (a) for the words “member State”, substitute “relevant State”; and
 - (b) for the words “member States” substitute “relevant States”.
3. In regulation 2 (interpretation)—
 - (a) in the definition of “diploma”—
 - (i) in paragraph (a)(i), for “similar” substitute “equivalent”;
 - (ii) in paragraphs (a)(iii)(a) and (b), in both places, for “within the Economic Community” substitute “within the relevant States”; and
 - (b) after the definition of “professional experience” insert—

““regulated education and training” means education or training which—

 - (a) is directly geared to the practice of a defined profession in a relevant State, and
 - (b) comprises a post-secondary course of at least three years’ duration, or an equivalent duration part-time, at a university or higher education establishment or in another establishment of equivalent level, and any additional professional training, professional traineeship or professional practice required, the structure and level of which is determined by the laws, regulations or administrative provisions of that relevant state or monitored or approved by the competent authority;” and
 - (c) after the definition of “regulated profession” insert—

““relevant State” means a member State, Iceland, Norway, Liechtenstein or Switzerland;”
4. In regulation 5 (right to practise in the United Kingdom)—
 - (a) for paragraph (1)(b) substitute—

“(b) the migrant produces evidence that he holds formal qualifications which satisfy the requirements of sub-paragraph (2) below and either—

 - (i) the qualifications were awarded on completion of regulated education and training; or
 - (ii) the migrant has within the ten years immediately prior to his application pursued a corresponding profession for at least two years full-time (or equivalent duration part-time) in a relevant State in which the profession is not regulated.”; and
 - (b) in paragraph (2), for the words “The evidence referred to in subparagraph (1)(b) of this regulation is of the following” substitute “Formal qualifications satisfy the requirements of this sub-paragraph if they are”.
5. In regulation 6 (professional experience, adaptation periods and aptitude tests)—
 - (a) in paragraph (1)(b), for “paragraph (2)” substitute “paragraphs (2) and (2A)”; and
 - (b) after paragraph (2) insert—

“(2A) If a designated authority intends to require the migrant to complete an adaptation period or take an aptitude test it must first examine whether the knowledge acquired by the migrant in the course of his professional experience is such that it fully or partly covers the substantial difference referred to in paragraph (3).”
6. In regulation 9 (evidence from competent authorities), after paragraph (5) add—
 - (6) A designated authority which requires proof of financial standing in respect of an applicant for authorisation to practise shall, in respect of a migrant, regard certificates issued by banks in the relevant State of origin of the migrant, the relevant State from which the migrant comes or the relevant State in which the migrant formerly qualified or practised as equivalent to those issued by banks in the United Kingdom.
 - (7) Subject to paragraph (8) 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.
 - (8) Any certificate referred to in paragraph (7) 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.”

7. In Schedule 1—
- (a) in the Table in Part I (professions regulated by law or public authority)—
- (i) after the entry relating to barrister (Northern Ireland), insert—
“CHIROPRACTOR The General Chiropractic Council”
 - (ii) after the entry relating to optometrist, insert—
“OSTEOPATH The General Osteopathic Council”
- (b) in the Table in Part II (professions regulated by professional bodies incorporated by Royal Charter),
- (i) for the entry relating to Chartered Marine Engineer, substitute—
“CHARTERED MARINE IMarEST The Institute of Marine Engineering
ENGINEER Science and Technology”
 - (ii) after the entry relating to Chartered Marketer, insert—
“CHARTERED C.Math The Institute of Mathematics and its
MATHEMATICIAN Applications”
 - (iii) after the entry relating to Chartered Physicist, insert—
“CHARTERED PUBLIC CPFA The Chartered Institute of Public Finance
FINANCE ACCOUNTANT and Accountancy”
 - (iv) omit the entry relating to Chartered Physiotherapist;
 - (v) omit the entry relating to Public Finance Accountant;
 - (vi) for the designatory letters “AIB(Scot)” and the designated authority “The Institute of Bankers in Scotland” substitute—
“ACIBS The Chartered Institute of Bankers in Scotland.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the European Communities (Recognition of Professional Qualifications) Regulations 1991 (“the 1991 Regulations”). The amendments have three purposes.

First, they give effect in the United Kingdom to those parts of Council Directive 2001/19/ EC (OJ No. L206, 31.7.2001, p. 1) which amend Council Directive 89/48/EEC (OJ No. L19, 24.1.89, p. 16) on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years’ duration. The latter directive is given effect in the UK by the 1991 Regulations.

Second, they amend the 1991 Regulations to provide for their application in relation to the European Economic Area and Switzerland, as well as in relation to the Member States of the European Union.

Finally they amend Schedule 1 to the 1991 Regulations to reflect changes in nomenclature of various professional bodies, and to add Chiropractic and Osteopathy to the list of regulated professions in Part I, and to add Chartered Mathematician to the list of regulated professions in Part II and remove the reference to Chartered Physiotherapist from that list.

A Transposition Note is available and can be obtained from the Department of Trade and Industry, Kingsgate House, London SW1E 6SW.

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