

**EXPLANATORY MEMORANDUM TO**  
**THE EUROPEAN QUALIFICATIONS (HEALTH CARE PROFESSIONS)**  
**(CROATIA ACCESSION AMENDMENT) REGULATIONS 2013**

**2013 No. 3036**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
  
2. **Purpose of the instrument**
  - 2.1 These Regulations implement, in part, the Treaty concerning the Accession of the Republic of Croatia to the European Union, signed at Brussels on 9<sup>th</sup> December 2011 (“the Treaty”) insofar as it amends the Recognition of Professional Qualifications Directive 2005/36/EC (“the Directive”) relating to doctors, dentists, nurses responsible for general care, midwives and pharmacists.
  
  - 2.2 These Regulations make special provision for the recognition of professional qualifications held by Member State nationals where training commenced in the former Yugoslavia before 8<sup>th</sup> October 1991, or where the qualifications were awarded by the former Yugoslavia before that date, and which are now attested by Croatia as being valid qualifications under the Directive.
  
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
  
4. **Legislative Context**
  - 4.1 These Regulations transpose, in part, Annex III to the Act annexed to the Treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9<sup>th</sup> December 2011 (“the Annex”).
  
  - 4.2 These Regulations implement the Annex insofar as it amends the Directive relating to professional qualifications held by doctors, dentists, nurses responsible for general care, midwives and pharmacists.
  
  - 4.3 The Annex amends the acquired rights provision in article 23(5) of the Directive, to make provision for training which was commenced in the former Yugoslavia before 8<sup>th</sup> October 1991, or qualifications that were awarded by the former Yugoslavia before this date, and which are now attested as valid by Croatia.

- 4.4 The Directive provides acquired rights for qualifications obtained in countries before those countries joined the EU. There is a general provision in article 23(1) of the Directive, which provides for the recognition of such qualifications provided that the person holding the qualification can provide a certificate showing that they have lawfully been engaged in the activity for three of the five years preceding the certificate.
- 4.5 There are specific provisions which provide acquired rights for persons who have obtained their qualifications in the former Soviet Union or the former Yugoslavia<sup>1</sup>. It is the acquired rights provision in article 23(5) of the Directive, relating to the former Yugoslavia, which has been amended under the Treaty and is being transposed through the Regulations attached.
- 4.6 Article 23(5) of the Directive requires each Member State to recognise evidence of formal qualifications of doctors (general and specialist), nurses responsible for general care, dental practitioners (general and specialist), midwives, and of pharmacists, held by nationals of the Member States and issued by the former Yugoslavia, or whose training commenced, for Slovenia, before 25<sup>th</sup> June 1991. The provision only applies where the authorities of the aforementioned Member State attest that such evidence has the same legal validity within their territory as the evidence which they issue regarding the pursuit of those professions. Such an attestation must be accompanied by a certificate stating that such persons have effectively and lawfully been engaged in the activities in question within their territory for at least three consecutive years during the five years prior to the date of issue of the certificate.
- 4.7 Article 23(5) has been substituted to make provision for training which was commenced in the former Yugoslavia before 8<sup>th</sup> October 1991, or qualifications that were awarded by the former Yugoslavia before this date, and are now attested as valid by Croatia.
- 4.8 The legal effect of the provision is that member States shall recognise evidence of qualifications awarded in the former Yugoslavia, or where training commenced in the former Yugoslavia, before 8<sup>th</sup> October 1991, which is attested by Croatia as a valid qualification. There remains the requirement to provide a certificate which shows that the person has been lawfully engaged in the professional activity for at least three consecutive years out of five prior to the date of the certificate before the qualification can be recognised.
- 4.9 The Treaty makes an exception to this provision in respect of specific qualifications relating to midwives which were obtained in Croatia before 1<sup>st</sup> July 2013. The existing provisions of the Directive relating to qualified rights of midwives are contained in article 43 of the Directive and the Treaty inserts new provision article 43(b). This provision excludes the specific qualifications which are listed, and which were obtained before 1<sup>st</sup> July 2013, from benefiting from the acquired rights set out in the Directive.

---

<sup>1</sup> See Articles 23(3) and (5).

- 4.10 These Regulations amend the following legislative instruments: Medical Act 1983; Postgraduate Medical Education and Training Order of Council 2010; Dentists Act 1984; European Primary and Specialist Dental Qualifications Regulations 1998; European Nursing and Midwifery Qualifications Designation Order of Council 2004; Pharmacy Order 2010 (Approved European Pharmacy Qualifications) Order 2010. The amendments will enable qualifications relevant to those health professions, obtained in the former Yugoslavia and attested as valid by Croatian authorities, to be recognised under the Directive.
- 4.11 A transposition note is at Annex A to this Memorandum. The transposition deadline was 1<sup>st</sup> July 2013 and these Regulations will come into force on 31<sup>st</sup> December 2013.

## **5. Territorial Extent and Application**

- 5.1 This instrument extends to all of the United Kingdom.

## **6. European Convention on Human Rights**

Dr Daniel Poulter (Minister of State at the Department of Health) has made the following statement regarding Human Rights:

In my view the provisions of the European Qualifications (Health Care Professions) (Croatia Accession Amendment) Regulations 2013 are compatible with the Convention rights.

## **7. Policy background**

*What is being done and why*

- 7.1 The amendments are required by reason of the accession to the European Union of the Republic of Croatia on 1<sup>st</sup> July 2013. The amendments are purely technical amendments to make provision for certain professional qualifications which were awarded in the former Yugoslavia and are now validated by Croatia.
- 7.2 The Recognition of Professional Qualifications Directive 2005/36/EC concerns the recognition of professional qualifications. The essential aim of the Directive is to facilitate the free movement of persons between Member States of the EU, by setting out principles and procedures which member States are to apply in determining the rights of the migrant to pursue professions which require professional qualifications.
- 7.3 The Directive distinguishes between two groups of health professions: the sectoral professions namely: doctors (including specialists and general practitioners), dentists, (including specialist and general practitioners) nurses responsible for general care, midwives and pharmacists; and the general system professions namely: opticians, osteopaths, chiropractors, social

workers, professions complementary to dentistry, certain specialist nurses, and those professions regulated by the Health and Care Professions Council.

- 7.4 These Regulations only relate to the sectoral health professions listed above. For these professions, the Directive sets out a harmonised system of recognition of qualifications, which enables a migrant to pursue a profession in a member State, for which he obtained his qualifications in another member State, without the need for him to undertake the professional qualifications of the host member State.

### *Consolidation*

- 7.5 As the amendments are of a minor and technical nature it is not considered necessary to consolidate the various legislative instruments at this time.

## **8. Consultation outcome**

- 8.1 As the amendments are of a minor and technical nature it was not considered necessary to consult on the substance of the Regulations.

## **9. Guidance**

- 9.1 Guidance on how to implement the Recognition of Professional Qualifications Directive 2005/36/EU already exists. As the amendments are of a minor and technical nature we do not see a need to produce further guidance.

## **10. Impact**

- 10.1 There is no direct impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is estimated to be minimal being confined to the General Medical Council, General Dental Council, Nursing and Midwifery Council and the General Pharmaceutical Council. The amendment will enable those regulatory bodies to recognise qualifications awarded, or training undertaken, in the former Yugoslavia, which are now attested by Croatia as valid qualifications.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

- 12.1 As these Regulations make minor technical amendments a review is not considered necessary.

## **13. Contact**

**Tracey Eckersley at the Department of Health**

email: Tracey.Eckersley@dh.gsi.gov.uk can answer any queries regarding the instrument.

## Transposition Note

**DIRECTIVE 2005/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 September 2005 on the recognition of professional qualifications as amended by the Treaty concerning the Accession of the Republic of Croatia to the European Union, signed at Brussels on 9<sup>th</sup> December 2011**

Annex III to the Act annexed to the Treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9<sup>th</sup> December 2011 (“the Annex”) insofar as it amends the Recognition of Professional Qualifications Directive 2005/36/EC (“the Directive”) relating to doctors, dentists, nurses responsible for general care, midwives and pharmacists, is transposed by the European Qualifications (Health Care Professions) (Croatia Accession Amendment) Regulations 2013 in relation to the United Kingdom.

These Regulations make special provision for the recognition of professional qualifications held by Member State nationals where training commenced in the former Yugoslavia before 8<sup>th</sup> October 1991, or where the qualifications were awarded by the former Yugoslavia before that date, and which are now attested by Croatia as being valid qualifications under the Directive.

The UK Government was required to transpose the amendments by 1<sup>st</sup> July 2013.

Article of Directive	Subject Matter	Implementation
<p><b>Article 23(5)</b> as substituted by Annex III to the Act annexed to the Treaty concerning the accession of the Republic of Croatia.</p>	<p><b>Article 23(5)</b> of the Directive provides acquired rights for training which was commenced in the former Yugoslavia before 8<sup>th</sup> October 1991, or qualifications that were awarded by the former Yugoslavia before this date, and which are now attested as valid by Croatia.</p> <p>The article applies to the following qualifications: doctors (including general and specialist</p>	<p style="text-align: center;"><b>References are to the European Qualifications (Health Care Professions) (Croatia Accession Amendment) Regulations 2013.</b></p> <p><b>Regulation 2</b> implements the provisions relating to the qualifications held by doctors of general medicine.</p> <p><b>Regulation 3</b> implements the provisions relating to the qualifications held by doctors of specialist medicine.</p> <p><b>Regulation 4</b> implements the provisions relating to the qualifications held by general dental practitioners.</p>

	<p>practitioners); dentists (including general and specialist practitioners); nurses responsible for general care; midwives and pharmacists.</p>	<p><b>Regulation 5</b> implements the provisions relating to the qualifications held by specialist dental practitioners.</p> <p><b>Regulation 6(3)</b> implements the provisions relating to the qualifications held by nurses responsible for general care, and midwives.</p> <p><b>Regulation 7 and 8</b> implement the provisions relating to the qualifications held by pharmacists.</p>
<p><b>Article 43(b)</b> as inserted by Annex III to the Act annexed to the Treaty concerning the accession of the Republic of Croatia</p>	<p><b>Article 43(b)</b> of the Directive excludes specific qualifications, from benefiting from the acquired rights set out in the Directive. Those excluded qualifications are listed in that article and relate to midwifery qualifications which were obtained before 1<sup>st</sup> July 2013.</p>	<p><b>Regulation 6(2)</b> implements the provisions which exclude certain midwifery qualifications from benefiting from the acquired rights under the Directive.</p>