

**EXPLANATORY MEMORANDUM TO**  
**THE EUROPEAN COMMUNITIES (RECOGNITION OF PROFESSIONAL**  
**QUALIFICATIONS) (AMENDMENT) REGULATIONS 2013**

**2013 No. 732**

**1.** This explanatory memorandum has been prepared by the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 Purpose of the instrument is to amend the European Communities (Recognition of Professional Qualifications) Regulations 2007 (“the 2007 Regulations”) to offer an aptitude test as an alternative option to an adaptation period of training by way of a compensatory measure for nurses responsible for general care and midwives coming to the UK from another Member State in order for them to acquire rights of practice here. The 2007 Regulations implement in part Council Directive 2005/65/EC on the recognition of professional qualifications (“the 2005 Directive”).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The instrument implements article 14(2) of the 2005 Directive in relation to the derogation from the choice of compensation measures for midwives and nurses responsible for general care who do not meet the professional requirements which would grant them acquired rights. The 2007 Regulations allow for such nurses and midwives to only undertake an adaption period of training. The instrument amends regulation 26 of the 2007 Regulations to permit these nurses and midwives a choice of compensatory measures; an aptitude test or an adaption period in order to meet the practising requirements.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The objective of the amendment to the Regulations is to facilitate the free movement of safe, suitable qualified and experienced EEA nurses responsible for general care and midwives to enable them to work in the UK. EEA migrants wishing to practise in the UK as such nurses and midwives must register with the Nursing and Midwifery Council (NMC). Those migrants not benefiting from automatic recognition provisions in European Law can be required by the NMC to undertake additional compensation measures pre-registration when substantial differences between the professional's training in their home country and UK training exist. European law permits compensation measures to take the form of a period of supervised training (adaptation period) or an aptitude test. Until now the UK has limited (under certain circumstances) the scope of compensation measures to adaptation periods. However, the lack of availability of adaptation period places has meant delays in migrants completing compensation measures and hence in being registered. To tackle this, Government wishes to remove this limitation in certain cases, offering migrant nurses and midwives a choice of aptitude tests as a form of compensatory measures. This requires changing domestic law, namely permitting the use of aptitude tests. The change will lead to a speedier and cheaper recognition process for the migrant, and relieve pressure on adaptation period places that are facilitated by UK educational and clinical institutions. Underpinning this choice is public safety - the NMC have developed a rigorously tested aptitude test that will ensure that those passing it are fit to practise in the UK.

- Consolidation

7.2 It is not considered necessary to consolidate the 2007 Regulations at this time. The Directive is currently being amended and it is intended to consolidate the 2007 Regulations when implementing the amendments.

## **8. Consultation outcome**

8.1 The NMC, the authority that deals directly with applications from migrant nurses and midwives, has been consulted. Other stakeholders have been consulted as well: European Federation of Nurses, European Midwives Association, Royal College of Nurses, Royal College of Midwives. All stakeholders welcomed the proposed amendments.

## **9. Guidance**

9.1 As this is a minor amendment we do not see a need to produce a specific guidance. Guidance on how to implement the Recognition of Professional Qualifications Directive already exists.

## **10. Impact**

10.1 There is no direct impact on business. However the proposed amendment would lead to a speedier and cheaper recognition process for the applicant, and relieve pressure on places for adaptation period training that are facilitated by UK educational & clinical institutions. In addition it would facilitate free movement of safe, suitably qualified and experienced EEA migrant nurses and midwives to enable them to work in the UK.

10.2 The impact on the public sector is very minor. Underpinning this choice is public safety - the NMC have developed a rigorously tested Aptitude Test that will ensure that those passing it are fit to practise in the UK.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 This is a minor amendment so a review is not considered necessary.

## **13. Contact**

Laura Danilaviciute at the Department for Business, Innovation and Skills (Tel: 020 7215 5113 or email: [laura.danilaviciute@bis.gsi.gov.uk](mailto:laura.danilaviciute@bis.gsi.gov.uk)) can answer any queries regarding the instrument.