
STATUTORY INSTRUMENTS

2015 No. 2059

The European Union (Recognition of Professional Qualifications) Regulations 2015

PART 2

Freedom to Provide Services on a Temporary and Occasional Basis

Right to practise in the United Kingdom

12.—(1) Subject to the provisions in regulations 13 to 24, a competent authority may not, for any reasons related to professional qualifications, restrict an applicant who moves to the United Kingdom to provide professional services.

(2) In this Part, references to “professional qualifications” includes, in respect of an applicant whose qualifications were obtained in a third country, those qualifications.

13.—(1) The provisions of this Part only apply where the applicant moves to the United Kingdom to provide professional services on a temporary and occasional basis.

(2) The competent authority must assess on a case by case basis whether the provision of professional services is on a temporary and occasional basis in particular in relation to its duration, its frequency, its regularity and its continuity.

(3) Where the applicant moves to the United Kingdom, the applicant will be subject to the professional rules of the relevant body or bodies referred to in Parts 1 and 3 of Schedule 1.

Exemptions

14.—(1) In accordance with regulation 12 and subject to paragraph (2), a competent authority must exempt applicants established in another relevant European State from the requirements which it places on professionals established in the United Kingdom relating to—

- (a) authorisation by, registration with or membership of a professional organisation or body; and
- (b) registration with a public social security body for the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons.

(2) Competent authorities may, in order to facilitate the application of disciplinary provisions in professional, statutory or administrative rules, provide either for automatic temporary registration or for pro-forma membership if such registration or membership—

- (a) does not delay or complicate in any way the provision of services, and
- (b) does not entail any additional costs for the applicant.

(3) For the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons, the applicant shall inform in advance or, in an urgent case afterwards, the body referred to in paragraph (1)(b).

Declaration and documents to be provided on the first provision of service

15.—(1) A competent authority may require that where an applicant first moves from another relevant European State to the United Kingdom in order to provide services in a regulated profession, the applicant must inform the appropriate competent authority by way of a declaration.

- (2) A declaration under paragraph (1) must—
- (a) be made in advance of the service being provided;
 - (b) include the details of any insurance cover or other means of personal or collective protection with regard to professional liability; and
 - (c) be renewed once a year if the applicant intends to provide temporary or occasional services in the United Kingdom during that year.
- (3) The declaration or renewal supplied to the competent authority must be provided in writing and may be supplied by any means.

16.—(1) Competent authorities may require that a declaration under regulation 15 be accompanied by the documents in paragraph (2)—

- (a) for the first provision of services, or
 - (b) if there is a material change in the situation substantiated by the documents.
- (2) The documents that may be required are—
- (a) proof of nationality of the applicant or, where the applicant is not a national of a relevant European State, proof of the Union right on which the applicant relies;
 - (b) an attestation certifying that the applicant is legally established in another relevant European State for the purpose of pursuing the activities concerned and that the applicant is not prohibited from practising, even temporarily, at the moment of delivering the attestation;
 - (c) evidence of professional qualifications;
 - (d) for cases referred to in regulation 8(3)(e), any means of proof that the applicant has pursued the activity concerned for at least one year during the previous ten years;
 - (e) for professions in the security sector, in the health sector and professions related to the education of minors, including in childcare and early childhood education where required for United Kingdom professionals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions;
 - (f) for professions that have patient safety implications, a declaration about the applicant's knowledge of the language necessary for practising the profession in the host State;
 - (g) for professionals covering the activities referred to in regulation 35 and which were notified to the Commission as requiring a prior check of qualifications under regulation 19, a certificate concerning the nature and duration of the activity issued by the competent authority or body of the home State.

17.—(1) Subject to regulation 19, an applicant who has submitted the required declaration in accordance with regulations 15 and 16 is entitled to have access to the professional activity or to exercise the professional activity in the entire territory of the United Kingdom.

(2) The competent authority may require additional information concerning the professional qualifications of the applicant if—

- (a) the profession is regulated in parts of the United Kingdom in a different manner,
- (b) such regulation also applies to all United Kingdom nationals,

- (c) the difference in such regulation are justified by overriding reasons of general interest relating to public health or safety of recipients; and
- (d) the competent authority has no other means of obtaining such information.

Title under which professional services are provided

18.—(1) Subject to paragraph (2), the applicant on providing services in the United Kingdom must—

- (a) use the professional title applicable to that profession in the home State, if that title exists within that State for the professional activity,
- (b) indicate that title in the official language or one of the official languages of the home State in such a way as to avoid confusion with the professional title of the profession in the United Kingdom; and
- (c) where no professional title exists in the home State, indicate the applicant's formal qualification in the official language or one of the official languages of that home State.

(2) On verification of qualifications where regulation 19 applies, or where both regulations 19 and 20 apply, the applicant on providing services must use the professional title applicable to that profession in the United Kingdom.

(3) Paragraph (2) does not apply in cases where partial access has been granted and the professional activity must be exercised under the professional title of the home State.

(4) The competent authority may require use of the professional title referred to in paragraph (3) in English.

Checks for professions having public health or safety implications

19.—(1) This regulation and regulations 20 to 23 apply in the case of applicants in a regulated profession which has public health or safety implications.

(2) Subject to paragraph (3), for regulated professions referred to in paragraph (1), the competent authority may check the professional qualifications of the applicant prior to the first provision of services.

(3) Such prior check shall be possible only where the purpose of the verification is justified and proportionate in the profession concerned in order to avoid serious damage to the health or safety of the recipient of the service, due to a lack of professional qualifications of the applicant, and where this check does not go beyond what is necessary to achieve that purpose.

20.—(1) This regulation applies if—

- (a) a check under regulation 19 demonstrates that there is a substantial difference between the professional qualifications of the applicant and the training required to access and pursue the regulated profession in the United Kingdom;
- (b) the substantial difference is such as to be harmful to public health or safety; and
- (c) the substantial difference cannot be compensated by the applicant's professional experience or by knowledge, skills or competences acquired through lifelong learning formally validated to that end by a relevant body.

(2) The competent authority must, prior to the first provision of services by the applicant, give the applicant the opportunity to show that the applicant has acquired the knowledge, skills or competence lacking by taking and passing an aptitude test.

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Changes to legislation: There are currently no known outstanding effects for the The European Union (Recognition of Professional Qualifications) Regulations 2015, PART 2. (See end of Document for details)

21. The competent authority must, within one month of receipt of the declaration and accompanying documents referred to in regulations 15 and 16, inform the applicant of its decision—

- (a) not to check the applicant's professional qualifications, or
- (b) (having checked the applicant's professional qualifications under regulation 19(2))—
 - (i) to give the applicant the opportunity to take an aptitude test under regulation 20(2); or
 - (ii) to allow the provision of services.

22.—(1) Where there is a difficulty which would result in delay of a decision under regulation 21, the competent authority must notify the applicant of the reason for the delay within one month of receipt of the declaration and accompanying documents.

(2) The difficulty must be resolved within one month of the notification referred to in paragraph (1) and the decision finalised within two months of resolution of the difficulty.

23.—(1) Where the competent authority gives the applicant the opportunity under regulation 20(2) to show that the applicant has acquired the knowledge, skills and competence lacking, the competent authority must give the applicant that opportunity within one month of the decision referred to in regulation 21.

(2) If the competent authority fails to take action under regulations 21 and 22 within the periods stipulated in those regulations, the applicant may provide the services in the United Kingdom.

Non-compliance

24.—(1) An applicant will no longer be entitled to provide services in the profession that the applicant is pursuing in the United Kingdom in accordance with this Part nor retain any temporary registration, if—

- (a) the applicant becomes established in that profession in the United Kingdom; or
- (b) the applicant is subject to a decision of the competent or judicial authority of the relevant European State in which the applicant is established which has the effect that the applicant is no longer lawfully established in that State or that the applicant is prohibited (even temporarily) from practising that profession there.

(2) Where—

- (a) under regulation 15 an applicant should have, but has not, renewed (or further renewed) a declaration under that regulation; and
- (b) under the professional rules concerned, a sanction is imposed by reference to the failure to renew,

the sanction is of no effect if, or so far as, it is not in the circumstances of the case proportionate to the failure to renew.

(3) Where under an enactment any register is maintained of persons engaged in the profession concerned, the competent authority for the profession, as a sanction for the failure to renew, may cause the applicant's name to be removed from that register.

(4) For the purposes of paragraph (2)(b), paragraph (3) is part of the professional rules concerned.

Administrative cooperation and service provision

25.—(1) Competent authorities may ask the competent authorities of the home State for each provision of service—

- (a) in the event of justified doubts, to provide any information relevant to the legality of the applicant's establishment and good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature imposed on the applicant,
 - (b) for information about the applicant's training courses as necessary to assess substantial differences likely to be harmful to public health and safety.
- (2) Competent authorities must provide this information to the competent authorities of other relevant European States in accordance with regulation 5(2) and regulation 66(1) and (2).
- (3) In the case of non-regulated professions, the assistance centre must provide the information referred to in paragraph (1) to the competent authorities of other relevant European states.
- (4) Competent authorities, on receiving a complaint by a recipient of a service against an applicant, must ensure the exchange of all information necessary for complaints to be correctly pursued.
- (5) The competent authority must, on receiving a complaint described in paragraph (4), inform the recipient of the service of the outcome of the complaint.

Information to be given to a recipient of professional services or service

26. Where the service is provided under the professional title of the home State or under the formal qualification of the applicant, a competent authority may require the applicant to furnish the recipient of the service with any or all of the following information—

- (a) if the applicant is registered in a commercial register or similar public register, the register in which the applicant is registered, the relevant registration number, or equivalent means of identification contained in that register;
- (b) if the activity is subject to authorisation in the home State, the name and address of the competent or supervisory authority;
- (c) any professional association or similar body with which the applicant is registered;
- (d) the professional title or, where no such title exists, the formal qualification of the applicant and relevant European State in which it was awarded;
- (e) if the applicant performs an activity which is subject to VAT, the VAT identification number referred to in Article 22(1) of the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax;
- (f) uniform basis of assessment ^{M1}; and
- (g) details of any insurance cover or other means of personal or collective protection with regard to professional liability.

Marginal Citations

M1 OJ No. L145, 13.6.1977, p.1.

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