Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Union (Recognition of Professional Qualifications) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 2059

PROFESSIONAL QUALIFICATIONS

The European Union (Recognition of Professional Qualifications) Regulations 2015

Made - - - -	*17th December 2015*
Laid before Parliament	*21st December 2015*
Coming into force - -	*18th January 2016*

The Secretary of State is designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to recognition of higher education diplomas, formal qualifications, or experience in the occupation, required for the pursuit of professions or occupations.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of European Union instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes the following Regulations in exercise of the powers conferred under section 2(2) of, as read with paragraph 1A of Schedule 2 [F3] to, the European Communities Act 1972.

F1 S.I. 2002/248, S.I. 1995/3207, S.I. 2003/2901. Under section 57(1) of the Scotland Act 1998 (c.46), despite the transfer to Scottish Ministers of functions in relation to implementation obligations under Union law in relation to certain matters by virtue of section 53 of that Act, the function of the Secretary of State in relation to any matter continues to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

F2 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

F3 Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

PART 1

General Provisions

Citation and commencement

1. These Regulations may be cited as the European Union (Recognition of Professional Qualifications) Regulations 2015 and come into force on 18th January 2016.

Interpretation

2.—(1) In these Regulations—

"the 2007 Regulations" means the European Communities (Recognition of Professional Qualifications) Regulations 2007 [F4];

"adaptation period" has the meaning set out in regulation 30;

"another relevant European State" means a relevant European State other than the United Kingdom;

"applicant" has the meaning set out in regulation 8(3) and (4);

"aptitude test" has the meaning set out in regulation 31;

"assistance centre" means the authority designated in the United Kingdom to assist with recognition of professional qualifications and to issue a European Professional Card in respect of any profession that is not regulated in the United Kingdom;

"Commission" means the European Commission;

"common training framework" has the meaning set out in regulation 64 in respect of a profession listed in a delegated act of the Commission pursuant to Article 49a(4) of the Directive;

"common training test" has the meaning set out in regulation 65 in respect of a profession listed in a delegated act of the Commission pursuant to Article 49b(4) of the Directive;

"compensation measures" means an adaptation period or an aptitude test;

"competent authority"—

(a) in relation to the United Kingdom, has the meaning set out in regulation 4(1) to (4);

(b) in relation to another relevant European State, has the meaning set out in regulation 4(5),

and unless the context otherwise requires, a reference to a competent authority is a reference to a competent authority in relation to the United Kingdom;

"designated competent authority" means a competent authority that has been authorised in the United Kingdom either to use IMI for the purposes of processing the European Professional Card or for measures relating to alerts regarding a professional whose professional activities have been restricted or prohibited even on a temporary basis, or for both purposes

"the Directive" means Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications [F5];

[F6]...

"Directive 2002/58/EC" means Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as amended from time to time [F7];

"Directive 2006/123/EC" means Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, as amended from time to time [F8]

"enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning given by subsection (1) of section 21 of the Interpretation Act 1978 [F9], except that the definition of that term in that subsection shall have effect as if "Act" included Northern Ireland legislation, and

(b) an enactment contained in an Act of the Scottish Parliament or in an instrument made under such an Act;

"European Credit Transfer and Accumulation System" or "ECTS credit" means the credit system for higher education used in the European Higher Education Area;

"European Professional Card" has the meaning given in the Directive;

"evidence of formal qualifications" has the meaning set out in regulation 9(2);

[[F10]"the GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;**]**

"home State" means the relevant European State in which the applicant obtained their professional qualifications or in which they lawfully practised;

"holder" means a person to whom a competent authority of a relevant European State has awarded professional qualifications;

"host State" means the relevant European State to which an applicant applies for access to or pursuit of a regulated profession in its territory;

"IMI" means the Internal Market Information System, the online, secure messaging system developed by the European Commission;

"Implementing Regulation 2015" means Commission Implementing Regulation (EU) No 2015/983 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council [F11];

"lifelong learning" means all general education, vocational education and training, non-formal education and informal learning during life resulting in an improvement in knowledge, skills and competences and may include professional ethics;

"manager of an undertaking" means any person who in any undertaking in the occupational field in question has pursued an activity—

(a) as a manager of an undertaking or a manager of a branch of an undertaking;

(b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or

(c) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking;

"missing document" for the purposes of applications for a European Professional Card has the meaning set out in Article 6(2) and 10(3) of the Implementing Regulation 2015;

"overriding reasons of general interest" means reasons recognised as such in the case law of the Court of Justice of the European Union;

"point of single contact" means the authority designated in the United Kingdom to handle online queries on access to professional activities in the United Kingdom;

"practice" in relation to any regulated profession includes—

(a) the taking up or pursuit of that profession in a relevant European State, whether in a self-employed capacity or as an employed person; and

(b) in the course of such pursuit—

(i) the right to use a professional title or designatory letters; and

(ii) the enjoyment of the benefit of the status associated with membership of the profession;

"profession" includes occupation or trade;

"professional association" means an association or organisation recognised in a special form, the purpose of which is, in particular, to promote and maintain a high standard in the professional field with which it is concerned and which, to that end—

(a) prescribes and enforces respect within its membership for rules of professional conduct and awards professional qualifications to its members; and

(b) confers on its members the right to use one or more professional titles or designatory letters or to benefit from a status corresponding to that professional qualification;

"professional experience" means the actual and lawful full-time or equivalent part-time pursuit of the profession concerned;

"professional traineeship" means a period of professional practice carried out under supervision that constitutes a condition for access to a regulated profession, and takes place either during or after completion of an education leading to a diploma;

"professional qualifications" has the meaning set out in regulation 9(1);

"professional rules" mean rules of a professional, statutory or administrative nature which are directly linked to professional qualifications, such as the definition of the profession, the use of titles, and serious professional malpractice which is directly and specifically linked to consumer protection and safety, as well as disciplinary provisions which are applicable to professionals who pursue the same profession;

"regulated education and training" has the meaning set out in regulation 8(2);

"regulated profession" has the meaning set out in regulation 8(1);

"relevant body" means a body in the home State that can validate professional qualifications;

"relevant European State" means—

(a) in relation to all provisions except regulation 78(3), an EEA State;

(b) in relation to regulation 78(3), an EEA state or Switzerland.

"same profession" means the profession for which the applicant is qualified in their home State if the activities covered are comparable;

"sectoral professions" means one or more of the following regulated professions namely that of doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect;

"third country" means a country other than a relevant European State,

"UK applicant" means a person whose qualifications were obtained wholly within the United Kingdom applying to a competent authority for authorisation to practise for the purposes of access to, or pursuit of a regulated profession, or any professional lawfully pursuing that profession in the United Kingdom.

(2) A reference in these Regulations to the Directive or a provision of the Directive is a reference to the Directive or a provision of the Directive as amended from time to time.

(3) A reference in these Regulations to the Implementing Regulation 2015 or a provision of that Regulation is a reference to the Implementing Regulation 2015 or a provision of that Regulation as amended from time to time.

(4) A reference in these Regulations to the United Kingdom shall, as the context requires, be taken to include a reference to any one or more of: England, Wales, Scotland, and Northern Ireland.

(5) For the purposes of these Regulations, an association or organisation established in the United Kingdom shall be taken to have been recognised in special form if the mode of its establishment was incorporation by Royal Charter.

(6) For the purposes of these Regulations, a profession having public health or safety implications is a regulated profession which is one of the following—

(a) a profession listed in Schedule 2;

(b) a sectoral profession, except the profession of architect, in a case described in regulation 3(8).

F4 S.I. 2007/2781.
F5 OJ No L 255, 30.9.2005, p.22.
F6 Words in reg. 2(1) omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 389(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
F7 OJ No L 201, 31.7.2002, p 37.
F8 OJ No L 274, 20.10.2009, p 36.
F9 1978 c.30.
F10 Words in reg. 2(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 389(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
F11 OJ No L 159, 25.6.2015, p 27.

Application

3.—(1) Subject to paragraphs (4) to (11), the provisions listed in paragraph (2) apply to applicants.

(2) Those provisions are—

(a) regulations 5(1) to (3), 6 and 7 (functions of competent authorities);

(b) regulations 10 and 11 (partial access);

(c) regulations 12 to 26 (Part 2 (freedom to provide services on a temporary and occasional basis));

(d) regulations 27 to 34, (Part 3 (freedom of establishment));

(e) regulation 35, (recognition of professional experience);

(f) regulations 38 to 43, (common provisions on establishment);

(g) regulations 44 to 63, (Part 4 European Professional Card) (in cases where the profession is listed in Annex 1 to the Implementing Regulation 2015);

(h) regulations 64 and 65, (automatic recognition on the basis of Common Training Platform);

(i) regulation 66 (exchange of information);

(j) regulation 68 (appeals);

(k) regulation 69 (use of academic titles).

(3) The provisions in regulation 67(1) and 67(3) to (10), and regulation 68 to the extent it applies to regulation 67, apply to professionals referred to in regulation 67(2).

(4) The provisions listed in paragraph (2) apply to the sectoral professions only as mentioned in paragraphs (3) and (5).