



STATUTORY INSTRUMENTS.

S.I. No. 8 of 2017



EUROPEAN UNION (RECOGNITION OF PROFESSIONAL
QUALIFICATIONS) REGULATIONS 2017

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QUALIFICATIONS) REGULATIONS 2017

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EUROPEAN UNION (RECOGNITION OF PROFESSIONAL
QUALIFICATIONS) REGULATIONS 2017

I, RICHARD BRUTON, Minister for Education and Skills, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005¹, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013² and Commission Delegated Decision (EU) 2016/790 of 13 January 2016³, and for the purpose of giving full effect to Commission Implementing Regulation (EU) 2015/983 of 24 June 2015⁴, and for the purpose of giving effect to Article 49 of the Treaty on the Functioning of the European Union in so far as that Article relates to the recognition of pharmacist qualifications, hereby make the following regulations:

Part 1

PRELIMINARY

Citation

1. These Regulations may be cited as the European Union (Recognition of Professional Qualifications) Regulations 2017.

Commencement

2. These Regulations come into operation on 17th day of January 2017.

Interpretation

3. (1) In these Regulations—

“adaptation period” has the meaning assigned to it in Regulation 23;

“aptitude test” has the meaning assigned to it in Regulation 24;

“competent authority” means—

(a) in the State, the authority designated as competent authority for a profession or professions under Regulation 5, or

(b) in another Member State, any authority or body empowered by that Member State specifically to issue or receive training diplomas and

¹OJ No. L 255, 30.9.2005, p. 22.

²OJ No. L 354, 28.12.2013, p. 132.

³OJ No. L 134, 24.5.2016, p. 135.

⁴OJ No. L 159, 25.6.2015, p. 27.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th January, 2017.*

other documents or information and to receive the applications, and take the decisions, referred to in the Directive;

“Directive” means Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005¹, as amended by Council Directive 2006/100/EC of 20 November 2006⁵, Commission Regulation (EC) No. 1430/2007 of 5 December 2007⁶, Commission Regulation (EC) No. 755/2008 of 31 July 2008⁷, Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008⁸, Commission Regulation (EC) No. 279/2009 of 6 April 2009⁹, Commission Regulation (EU) No. 213/2011 of 3 March 2011¹⁰, Act concerning the accession of the Republic of Croatia¹¹, Commission Regulation (EU) No. 623/2012 of 11 July 2012¹², Council Directive 2013/25/EU of 13 May 2013¹³, Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013² and Commission Delegated Decision (EU) 2016/790 of 13 January 2016³;

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

“eligible person” means—

- (a) a national of a Member State,
- (b) a family member of a national of a Member State, as defined in Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004¹⁴, who has been given the right of residence or permanent residence in the State pursuant to that directive, or
- (c) a person granted refugee or subsidiary protection status in the State under Council Directive 2004/83/EC of 29 April 2004¹³, or a dependent family member of such person;

“European Professional Card” means an electronic certificate proving either—

- (a) that the professional has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis in a particular profession, or
- (b) the recognition of professional qualifications for establishment in a host Member State;

⁵OJ No. L 363, 20.12.2006, p. 141.

⁶OJ No. L 320, 6.12.2007, p. 3.

⁷OJ No. L 205, 1.8.2008, p. 10.

⁸OJ No. L 311, 21.11.2008, p. 1.

⁹OJ No. L 93, 7.4.2009, p. 11.

¹⁰OJ No. L 59, 4.3.2011, p. 4.

¹¹OJ No. L 112, 24.4.2012, p. 6.

¹²OJ No. L 180, 12.7.2012, p. 9.

¹³OJ No. L 158, 10.6.2013, p. 368.

¹⁴OJ No. L 304, 30.9.2004, p. 12.

“evidence of formal qualifications” means diplomas, certificates and other evidence issued by an authority in a Member State designated pursuant to legislative, regulatory or administrative provisions in that Member State and certifying successful completion of professional training obtained mainly in the European Union and, where a qualification has been obtained in a state which is not a Member State, in compliance with Regulation 4(1)(b);

“home Member State” means a Member State in which a person obtained his or her professional qualification or in which he or she is legally established for the purpose of pursuing his or her profession;

“host Member State” means the Member State in which a person wishes to pursue professional activity pursuant to the Directive;

“IMI” means the Internal Market Information System established by Regulation (EU) No. 1024/2012 of the European Parliament and of the Council of 25 October 2012¹⁵;

“Implementing Regulation” means Commission Implementing Regulation (EU) 2015/983 of 24 June 2015⁴;

“lifelong learning” means all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences, which may include professional ethics;

“manager of an undertaking” means any person who in an 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; or
- (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

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

“medical practitioner” has the meaning assigned to it in the Medical Practitioners Act 2007 (No. 25 of 2007);

“Minister” means the Minister for Education and Skills;

“Member State” means—

- (a) in relation to all provisions except Regulation 96(2), a state which is a member state of the European Union, and
- (b) in relation to Regulation 96(2)—

¹⁵OJ No. L 316, 14.11.2012, p. 1.

- (i) a state which is a contracting party to the Agreement on the European Economic Area signed in Oporto on 2 May 1992, or
- (ii) Switzerland;

“national coordinator” means the person appointed by the Minister pursuant to Regulation 7;

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

“professional experience” means the actual and lawful full-time or equivalent part-time pursuit of the profession concerned in a Member State;

“professional qualifications” means qualifications attested by evidence of formal qualifications, an attestation of competence or professional experience;

“professional traineeship” means, without prejudice to Article 46(4) of the Directive, a period of professional practice carried out under supervision provided it constitutes a condition for access to a regulated profession, and which can take place either during or after completion of an education leading to a diploma;

“regulated education and training” means any training which is specifically geared to the pursuit of a given profession, and which comprises a course or courses complemented, where appropriate, by professional training, or probationary or professional practice, the structure and level of such training or practice being monitored or approved by the competent authority;

“regulated profession” means—

- (a) a profession or professional activity in the State listed in column 1 in Schedule 1, or
- (b) an activity in the State listed in Annex IV to the Directive, access to or the pursuit of which is contingent upon possession of general, commercial or professional knowledge and aptitudes;

“veterinary practitioner” has the meaning assigned to it in section 2 of the Veterinary Practice Act 2005 (No. 22 of 2005).

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Scope of Regulations

4. (1) Subject to paragraph (2), these Regulations apply to an eligible person—

- (a) who obtained his or her professional qualification in a Member State other than the State, or

- (b) whose qualifications have been issued by a state other than a Member State, where a Member State other than the State has certified that the person has three years' professional experience in the profession concerned on its territory, that Member State having recognised the evidence of formal qualifications in accordance with its rules,

and who wishes to pursue a regulated profession in the State, on either a self-employed or employed basis.

(2) These Regulations do not apply to a notary appointed by an official act of government.

(3) Paragraph (1)(a) includes within its scope an eligible person who pursued a professional traineeship outside his or her home Member State.

Part 2

COMPETENT AUTHORITIES, NATIONAL CO-ORDINATION AND ASSISTANCE CENTRE

Designation of competent authorities in State

5. (1) The authorities listed in column 2 of Schedule 1 are designated as the competent authorities in the State, for the purposes of these Regulations, the Directive and the Implementing Regulation, in respect of the corresponding regulated professions in the State listed in column 1 of that Schedule.

(2) The national co-ordinator is designated as the competent authority for professions in the State which are not regulated.

(3) Subject to paragraph (4), An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS) is designated as the competent authority for the purposes of these Regulations, the Directive and the Implementing Regulation, in respect of the activities listed in Annex IV to the Directive access to, or the pursuit of which, is contingent in the State upon general, commercial or professional knowledge and aptitudes.

(4) Where an activity listed in Annex IV to the Directive is carried on by a profession in the State listed in column 1 of Schedule 1, the competent authority shall be the corresponding authority listed in column 2 of that Schedule, rather than the authority referred to in paragraph (3).

Functions of competent authorities

6. (1) Without prejudice to its other powers and functions, a competent authority in the State has the function of receiving and considering applications by applicants and taking the actions and decisions referred to in these Regulations, the Directive and the Implementing Regulation.

(2) A competent authority in the State may obtain advice from an appropriate third party in relation to the carrying out of its functions under these Regulations, the Directive and the Implementing Regulation, and the third party may receive payment for such advice.

(3) A competent authority in the State shall, on request, assist the State in compiling a report for submission to the European Commission pursuant to Article 60 of the Directive and shall compile statistical summaries of decisions it has taken having regard to the requirements of that Article.

(4) A competent authority in the State shall work in close collaboration with the National Co-ordinator, the Assistance Centre, Government Departments and other relevant bodies in the State to facilitate compliance with the Directive in the State.

(5) A competent authority in the State shall work in close collaboration with competent authorities in other Member States and shall provide assistance in order to facilitate the application of the Directive.

(6) A competent authority in the State shall ensure the confidentiality of the information which it exchanges with competent authorities in other Member States.

(7) A competent authority in the State shall exchange, with competent authorities in other Member States, information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under the Directive or these Regulations.

(8) In exchanging information pursuant to paragraph (7), a competent authority in the State shall respect personal data protection rules provided for under Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995¹⁶ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002¹⁷.

(9) A competent authority in the State in receipt of information referred to in paragraph (7) shall—

- (a) examine the veracity of the circumstances arising,
- (b) decide on the nature and scope of the investigations which need to be carried out, and
- (c) inform the competent authority which provided the information of the conclusions which it draws from the information available to it.

(10) For the purposes of paragraph (5) to (9), a competent authority in the State shall use IMI.

National co-ordination

7. (1) The Minister shall appoint an official of the Department of Education and Skills as national co-ordinator for the State under the Directive whose primary task shall be to co-ordinate the activities of the competent authorities in the State.

¹⁶OJ No. L 281, 23.11.1995, p. 31.

¹⁷OJ No. L 201, 31.7.2002, p. 37.

(2) The Minister may revoke an appointment under paragraph (1) and appoint another official to replace the official whose appointment has been revoked.

(3) The national co-ordinator shall, in concert with national co-ordinators appointed by the other Member States—

- (a) promote uniform application of the Directive,
- (b) collect all the information which is relevant for application of the Directive, such as on the conditions for access to regulated professions in the Member States,
- (c) examine suggestions for common training frameworks and common training tests under the Directive,
- (d) exchange information and best practice for the purpose of optimising continuous professional development in Member States, and
- (e) exchange information and best practice on the application of compensation measures under Regulation 22 and Article 14 of the Directive.

(4) For the purpose of carrying out the task set out in paragraph (3)(b), the national co-ordinator may solicit the help of the assistance centres referred to in Article 57b of the Directive.

(5) The national co-ordinator, Government Departments and other relevant bodies in the State shall work in close collaboration to facilitate compliance with the Directive in the State.

Assistance centre

8. (1) The Minister shall appoint a person or organisation as the assistance centre in the State for the purposes of these Regulations and the Directive.

(2) The Minister may revoke an appointment under paragraph (1) and appoint another person or organisation to replace the person or organisation whose appointment has been revoked.

(3) The remit of the assistance centre shall be to provide citizens, as well as assistance centres of the other Member States, with assistance concerning the recognition of professional qualifications under these Regulations and the Directive, including information on the national legislation governing the regulated professions and the pursuit of those professions, social legislation, and, where appropriate, the rules of ethics.

(4) The assistance centre shall assist persons in exercising the rights conferred on them by these Regulations and the Directive in the State, in co-operation, where appropriate, with the assistance centre in the home Member State and the competent authorities and the points of single contact in the State.

(5) A competent authority in the State shall fully cooperate with the assistance centre in the State and, where appropriate, the assistance centre in the home Member State, and provide all relevant information about individual cases to such assistance centres upon their request and subject to data protection rules in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995¹⁶ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002¹⁷.

(6) At the European Commission's request, the assistance centre shall inform the European Commission of the result of enquiries with which it is dealing within two months after receiving such a request.

Part 3

EFFECTS OF RECOGNITION

General effect of recognition

9. (1) Subject to Regulation 10, the recognition of professional qualifications by a competent authority in the State entitles the beneficiary to gain access in the State to the same profession as that for which he or she is qualified in his or her home Member State and to pursue it in the State under the same conditions as nationals of the State.

(2) For the purpose of these Regulations, the profession which the applicant wishes to pursue in the State is the same as that for which he or she is qualified in his or her home Member State if the activities covered are comparable.

Partial access

10. (1) A competent authority in the State shall grant partial access, on a case-by-case basis, to a professional activity in the State where—

- (a) the professional is fully qualified to exercise in the home Member State the professional activity for which partial access is sought in the State,
- (b) differences between the professional activity legally exercised in the home Member State and the regulated profession in the State as such are so large that the application of compensation measures would amount to requiring the applicant to complete the full programme of education and training required in the State to have access to the full regulated profession in the State, and
- (c) the professional activity can objectively be separated from other activities falling under the regulated profession in the State.

(2) For the purpose of paragraph (1)(c), a competent authority in the State shall take into account whether the professional activity can be pursued autonomously in the home Member State.

(3) Partial access sought under this Regulation may be rejected by a competent authority if such rejection is justified by overriding reasons of general

interest, suitable for securing the attainment of the objective pursued, and does not go beyond what is necessary to attain that objective.

(4) Notwithstanding Regulations 15(8) and 85(1), a professional activity to which partial access has been granted under this Regulation shall be exercised under the professional title of the home Member State and the competent authority in the State may require use of that professional title in the English language.

(5) Professionals benefiting from partial access under this Regulation shall clearly indicate to the service recipients the scope of their professional activities.

(6) This Regulation shall not apply to professionals benefiting from automatic recognition of their professional qualifications under Parts 6 to 14.

(7) Applications for partial access to a profession in the State shall be examined in accordance with Part 4 or 5, as appropriate.

Part 4

FREE PROVISION OF SERVICES ON TEMPORARY AND OCCASIONAL BASIS

Principle of free provision of services

11. (1) Without prejudice to the provisions of this Part, a competent authority in the State shall not restrict, for any reason relating to professional qualifications, the free provision of services in a regulated profession in the State on a temporary and occasional basis, where—

- (a) the service provider is legally established in a Member State other than the State for the purpose of pursuing the same profession in that Member State,
- (b) the service provider moves to the State to pursue the profession on a temporary and occasional basis, and
- (c) if neither the profession, nor the education and training leading to it, are regulated in the home Member State, the service provider has pursued that profession in one or several Member States for at least one year during the last 10 years preceding the provision of services.

(2) For the purposes of paragraph (1), the temporary and occasional nature of the provision of services shall be assessed by a competent authority in the State on a case-by-case basis, in particular in relation to its duration, its frequency, its regularity and its continuity.

(3) A competent authority in the State may seek documentation or information from a person purporting to provide services in the State pursuant to this Regulation to determine whether or not there has been compliance with the requirements of this Part.

(4) Where a service provider moves to the State and provides services in a regulated profession in the State on a temporary and occasional basis pursuant to paragraph (1), he or she shall be subject to any professional, statutory and administrative rules applicable to that profession, including rules in relation to—

- (a) the definition of the profession,
- (b) the use of titles,
- (c) serious professional malpractice which is directly and specifically linked to consumer protection and safety, and
- (d) discipline.

Exemptions, requirements and revocations in relation to free provision of services

12. (1) Notwithstanding Regulation 11(4), where a service provider provides services in a regulated profession in the State on a temporary and occasional basis under this Part, the competent authority for that profession shall exempt the service provider from the requirements it places on professionals pursuing that profession in the State 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) Notwithstanding paragraph (1)(a), and subject to paragraph (3), in order to facilitate the application of disciplinary provisions in the State in accordance with Regulation 11(4), the competent authority may provide either for automatic temporary registration with, or pro forma membership of, the professional organisation or body, provided that such registration or membership does not delay or complicate in any way the provision of services and does not entail any additional costs for the service provider.

(3) In the case of the professions listed in Schedule 2, the competent authorities shall provide for automatic temporary registration in accordance with paragraph (2).

(4) For the purposes of paragraph (2), where the competent authority and the professional organisation or body are different, automatic temporary registration or pro forma membership shall be effected by the competent authority sending to the professional organisation or body—

- (a) a copy of the declaration, and, where applicable, of the renewal, referred to in Regulation 13(1) and (2), and
- (b) for professions listed in Schedule 3 or which benefit from automatic recognition under Parts 7 to 14, a copy of the documents referred to in Regulation 13(3).

(5) Notwithstanding paragraph (1)(b), a service provider shall inform in advance or, in an urgent case, afterwards, the body referred to in that paragraph of the services provided by him or her on a temporary and occasional basis under this Part.

(6) A competent authority in the State shall revoke automatic temporary registration or pro forma membership of a person providing temporary and occasional services under this Part where—

- (a) the declaration or documents referred to in Regulation 13 are inaccurate or incomplete,
- (b) he or she fails to provide the competent authority with a renewal declaration in accordance with Regulation 13(2),
- (c) he or she becomes established in the relevant profession in the State,
- (d) he or she is not established in the relevant profession in another Member State,
- (e) he or she is prohibited, whether permanently or temporarily, from practising the profession in another Member State,
- (f) the services being provided in the State are not temporary and occasional, or
- (g) the requirements of this Part are otherwise not complied with.

(7) Notwithstanding paragraph (6), a competent authority may decide not to revoke automatic temporary registration or pro forma membership of a person providing temporary and occasional services under this Part where—

- (a) the person is the subject of a complaint which has not been disposed of or otherwise dealt with under the relevant disciplinary procedures including fitness to practise procedures, and
- (b) it is in the public interest not to revoke registration or membership.

Declaration to be made in advance

13. (1) Where a service provider first moves to the State from another Member State in order to provide services under this Part, he or she shall inform the competent authority in the State of such move, by way of written declaration made in advance and supplied by any means, including details of any insurance cover or other means of personal or collective protection with regard to professional liability.

(2) The declaration referred to in paragraph (1) shall be renewed once a year if the service provider intends to provide temporary or occasional services in the State during that year.

(3) For the first provision of services, or if there is a material change in the situation substantiated by the documents, a declaration provided pursuant to this Regulation shall be accompanied by the following documents:

- (a) proof of the nationality of the service provider;
- (b) an attestation certifying that the holder is legally established in a Member State other than the State for the purpose of pursuing the activities concerned and that he or she is not prohibited from practising, even temporarily, at the moment of delivering the attestation;
- (c) evidence of professional qualifications;
- (d) where Regulation 11(1)(c) applies, any means of proof that the service provider has pursued the activity concerned for at least one year during the previous 10 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, 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 service provider's knowledge of the language necessary for practising the profession in the State.

(4) Subject to Regulation 15, submission of a required declaration by a service provider pursuant to this Regulation shall entitle that service provider to have access to and pursue the relevant profession or professional activity in the entire territory of the State.

Use of professional title when providing temporary and occasional services

14. (1) Subject to paragraphs (3) and (4) and Regulation 15(8), services provided in the State under this Part shall be provided under the professional title used in the home Member State.

(2) The professional title referred to in paragraph (1) shall be indicated in the official language or one of the official languages of the home Member State in such a way as to avoid any confusion with the professional title used in the State.

(3) Where no professional title exists for the relevant profession in the home Member State, a service provider providing services in the State under this Part shall indicate his or her formal qualifications in the official language or one of the official languages of that Member State.

(4) In the case of professions subject to automatic recognition under Parts 7 to 14, services provided in the State under this Part shall be provided under the professional title used in the State.

Checking of professional qualifications

15. (1) Subject to paragraph (2), for the first provision of services, in the case of persons providing services in the State on a temporary and occasional basis in the professions listed in Schedule 3, who have not benefitted from automatic recognition under Parts 6 to 14, the competent authority in the State may check the professional qualifications of the service provider prior to the first provision of services under this Part.

(2) The prior check referred to in paragraph (1) shall be possible only where the purpose of the check is to avoid serious damage to the health or safety of the service recipient due to a lack of professional qualification of the service provider and where the check does not go beyond what is necessary for that purpose.

(3) Subject to paragraph (4), where this Regulation applies to the provision of services, no later than one month after receipt of a declaration and accompanying documents provided in accordance with Regulation 13, the competent authority shall inform the service provider who provided such declaration and documents of its decision—

(a) not to check his or her professional qualifications, or

(b) having checked his professional qualifications—

(i) to require the service provider to take an aptitude test, or

(ii) to allow the provision of services.

(4) Where there is a difficulty which would result in delay in taking a decision under paragraph (3), the competent authority shall notify the service provider of the reason for the delay within the same deadline and the difficulty shall be solved within one month of that notification and the decision finalised within two months of resolution of the difficulty.

(5) Where there is a substantial difference between the professional qualifications of the service provider and the training required in the State for the relevant profession, to the extent that that difference is such as to be harmful to public health or safety, and that it cannot be compensated by the service provider's professional experience or by knowledge, skills and competences acquired through lifelong learning formally validated to that end by a relevant body, the competent authority shall give that service provider the opportunity to show, by means of an aptitude test, as referred to in paragraph (3)(b)(i), that he or she has acquired the knowledge, skills or competence that were lacking and the competent authority shall take a decision on that basis on whether to allow the provision of services.

(6) In any case, it must be possible to provide the service within one month of a decision taken in accordance with paragraphs (3) and (4) to allow the provision of services.

(7) In the absence of a reaction of the competent authority within the deadlines set out in this Regulation, the service sought to be provided may be provided.

(8) In cases where professional qualifications have been verified under this Regulation, the service shall be provided under the professional title used in the State.

Administrative co-operation

16. (1) A competent authority in the State may ask a competent authority of the home Member State, in the event of justified doubts, to provide any information relevant to the legality of a service provider's establishment and good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature.

(2) In the event that a competent authority in the State decides to check a service provider's professional qualifications pursuant to Regulation 15, it may ask the competent authority of the home Member State for information about the service provider's training courses to the extent necessary to assess substantial differences likely to be harmful to public health or safety.

(3) A competent authority in the State that is asked for information, pursuant to Article 8 of the Directive, in relation to a service provider established in the State shall provide that information in accordance with Article 56 of the Directive.

(4) In the case of the provision of services in the State under this Part in a profession which is not regulated in the home Member State, the competent authority in the State may seek information from an assistance centre designated under Article 57b of the Directive.

(5) The assistance centre designated under Regulation 8 shall, upon request, provide information to a competent authority in another Member State in relation to applications for the provision of services in that state by a service provider in a profession which is not regulated in the State and who obtained his or her professional qualification in the State.

(6) A competent authority in the State shall ensure the exchange of all information necessary for complaints by a recipient of a service against a service provider under this Part to be correctly pursued and recipients shall be informed of the outcome of the complaint.

Information to be given to recipients of service

17. In cases where a service is provided under this Part under the professional title of the home Member State or under the formal qualification of the service provider, the competent authority in the State may require the service provider to furnish the recipient of the service with any or all of the following information:

- (a) if the service provider is registered in a commercial register or similar public register, the register in which he or she is registered, his or her

registration number, or equivalent means of identification contained in that register;

- (b) if the activity is subject to authorisation in the home Member State, the name and address of the competent supervisory authority;
- (c) any professional association or similar body with which the service provider is registered;
- (d) the professional title or, where no such title exists, the formal qualification of the service provider and the Member State in which it was awarded;
- (e) if the service provider performs an activity which is subject to VAT, the VAT identification number referred to in Article 22(1) of Sixth Council Directive 77/388/EEC of 17 May 1977¹⁸;
- (f) details of any insurance cover or other means of personal or collective protection with regard to professional liability.

Part 5

GENERAL SYSTEM FOR RECOGNITION OF EVIDENCE OF TRAINING

Scope of Part 5

18. This Part applies in respect of a person seeking to pursue professional activity in the State in—

- (a) a regulated profession in the State which is not covered by Parts 6 to 14, or
- (b) one of the following cases in which the applicant for recognition, for specific and exceptional reasons, does not satisfy the conditions for recognition provided for in the provisions referred to in paragraph (a):
 - (i) for an activity listed in Annex IV to the Directive, when the migrant does not meet the relevant requirements set out in Regulation 27, 28 or 29;
 - (ii) for doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects, when the migrant does not meet the relevant requirements of effective and lawful professional practice referred to in Regulation 33, 38, 42, 46, 51 or 59 or Part 14;
 - (iii) for architects, when the migrant holds evidence of formal qualification not listed in point 5.7.1 of Annex V to the Directive;

¹⁸OJ No. L 145, 13.6.1977, p. 1.

- (iv) without prejudice to Regulations 30, 35, 39, 43, 47, 52 and 56 and Part 14, for doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects holding evidence of formal qualifications as a specialist who must have taken part in the training leading to the possession of a title listed in points 5.1.1, 5.2.2, 5.3.2, 5.4.2, 5.5.2, 5.6.2 and 5.7.1 of Annex V to the Directive and solely for the purpose of the recognition of the relevant specialty;
- (v) for nurses responsible for general care and specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training leading to the possession of a title listed in point 5.2.2 of Annex V to the Directive, when the migrant seeks recognition in another Member State where the relevant professional activities are pursued by specialised nurses without training as general care nurse;
- (vi) for specialised nurses without training as general care nurse, when the migrant seeks recognition in another Member State where the relevant professional activities are pursued by nurses responsible for general care, specialised nurses without training as general care nurse or specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training leading to the possession of the titles listed in point 5.2.2 of Annex V to the Directive; and
- (vii) a migrant from a state which is not a Member State who meets the requirements set out in Regulation 4(1)(b).

Levels of qualification

19. For the purposes of Regulations 21 and 22, professional qualifications shall be grouped into the levels of qualification set out in Schedule 4.

Equal treatment of qualifications

20. (1) Any evidence of formal qualifications or set of evidence of formal qualifications issued by a competent authority in a Member State other than the State, certifying successful completion of training in a Member State or Member States, on a full or part-time basis, within or outside formal programmes, which is recognised by that Member State as being of an equivalent level and which confers on the holder the same rights of access to or pursuit of a profession or prepares for the pursuit of that profession, shall be treated by a competent authority in the State as evidence of formal qualifications referred to in Schedule 4, including the level in question.

(2) Any professional qualification which, although not satisfying the requirements contained in the legislative, regulatory or administrative provisions in force in the home Member State for access to or the pursuit of a profession, confers on the holder acquired rights by virtue of these provisions, shall also be treated as such evidence of formal qualifications under the same conditions as set out in paragraph (1).

(3) Paragraph (2) applies in particular if the home Member State raises the level of training required for admission to a profession and for its exercise, and if an individual who has undergone former training, which does not meet the requirements of the new qualification, benefits from acquired rights by virtue of national legislative, regulatory or administrative provisions; in such case this former training shall be considered by a competent authority in the State, for the purposes of the application of Regulation 21, as corresponding to the level of the new training.

Conditions for recognition

21. (1) If access to or pursuit of a regulated profession in the State is contingent upon possession of specified professional qualifications, the competent authority in the State shall permit applicants to access and pursue that profession, under the same conditions as apply to nationals of the State, if they possess an attestation of competence or evidence of formal qualifications referred to in Schedule 4, required by another Member State in order to gain access to and pursue that profession on its territory.

(2) Subject to paragraph (4), access to, and pursuit of, a regulated profession in the State shall also be granted to applicants who have pursued the profession in question on a full-time basis for one year or for an equivalent overall duration on a part-time basis during the previous 10 years in another Member State which does not regulate that profession, and who possess one or more attestations of competence or evidence of formal qualifications issued by another Member State which does not regulate the profession.

(3) In order to be recognised by a competent authority in the State, attestations of competence and evidence of formal qualifications shall—

(a) be issued by a competent authority in another Member State, designated in accordance with the laws, regulations or administrative provisions of that Member State, and

(b) attest that the holder has been prepared for the pursuit of the profession in question.

(4) The one year of professional experience referred to in paragraph (2) may not be required by a competent authority in the State if the evidence of formal qualifications which the applicant possesses certifies regulated education and training.

(5) A competent authority in the State shall accept the level attested under Schedule 4 by the home Member State, as well as the certificate by which the home Member State certifies that regulated education and training or vocational training with a special structure referred to in level (c)(ii) in Schedule 4 is equivalent to the level provided for in level (c)(i) in Schedule 4.

(6) Notwithstanding paragraphs (1) to (4) of this Regulation and Regulation 22, a competent authority in the State may refuse access to, and pursuit of, the profession to holders of an attestation of competence classified under level (a)

in Schedule 4 where the national professional qualification required to exercise the profession on its territory is classified under level (e) in Schedule 4.

Compensation measures

22. (1) Regulation 21 shall not preclude a competent authority in the State from requiring the applicant to complete an adaptation period of up to three years or to take an aptitude test if—

- (a) the training the applicant has received covers substantially different matters than those covered by the evidence of formal qualifications required in the State, or
- (b) the regulated profession in the State comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State, and the training required in the State covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.

(2) Subject to paragraphs (3), (4) and (5), where a competent authority in the State makes use of the option provided for in paragraph (1), it must offer the applicant the choice between an adaptation period and an aptitude test.

(3) An applicant is required to undergo an aptitude test in the case of the professions and professional activities listed in Schedule 5, pursuit of which requires precise knowledge of national law and in respect of which the provision of advice or assistance concerning national law is an essential and constant aspect of the professional activity.

(4) A competent authority in the State may stipulate either an adaptation period or an aptitude test in the following cases:

- (a) the cases provided for in Regulation 18(b)(ii) and (iii);
- (b) the cases provided for in Regulation 18(b)(iv) concerning doctors and dental practitioners;
- (c) the cases provided for in Regulation 18(b)(vi);
- (d) the cases provided for in Regulation 18(b)(vii);
- (e) the cases provided for in Regulation 18(b)(i), if the migrant envisages pursuing professional activities in a self-employed capacity or as a manager of an undertaking which require the knowledge and the application of the specific national rules in force, provided that knowledge and application of those rules are required by the competent authority in the State for access to such activities by nationals of the State;
- (f) the case of a holder of a professional qualification referred to in level (a) in Schedule 4 who applies for recognition of his or her professional

qualifications where the professional qualification required in the State is classified under level (c) in Schedule 4; and

- (g) the case of a holder of a professional qualification referred to in level (b) in Schedule 4 who applies for recognition of his or her professional qualifications where the professional qualification required in the State is classified under level (d) or (e) in Schedule 4.

(5) In the case of a holder of a professional qualification referred to in level (a) in Schedule 4 who applies for recognition of his professional qualifications where the professional qualification required in the State is classified under level (d) in Schedule 4, the competent authority in the State may impose both an adaptation period and an aptitude test.

(6) In deciding whether to require an applicant to complete an adaptation period or take an aptitude test under paragraph (1), a competent authority in the State shall—

- (a) have due regard to the principle of proportionality, and
- (b) ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his professional experience or through lifelong learning, and formally validated to that end by a relevant body, in any other Member State or in a state which is not a Member State, is of such nature as to cover, in full or in part, the substantially different matters.

(7) A decision by a competent authority in the State to impose an adaptation period or an aptitude test under this Regulation shall be duly justified and the applicant shall be provided with the following information:

- (a) the level of the professional qualification required in the State and the level of the professional qualification held by the applicant in accordance with the classification set out in Schedule 4; and
- (b) the substantially different matters and the reasons for which those matters cannot be compensated by knowledge, skills and competences acquired in the course of professional experience or through lifelong learning formally validated to that end by a relevant body.

(8) A competent authority in the State shall ensure that an applicant has the possibility of taking the aptitude test under this Regulation not later than six months after the initial decision imposing an aptitude test on the applicant.

(9) In this Regulation “substantially different matters” means matters in respect of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the migrant shows significant differences in terms of content from the training required in the State.

Adaptation period

23. (1) An adaptation period referred to in this Part shall comprise of a period of pursuit of the relevant regulated profession in the State under the supervision and responsibility of a qualified member of that profession.

(2) The period of supervised practice referred to in paragraph (1) may be accompanied by further training.

(3) The period of supervised practice referred to in paragraph (1) shall be the subject of an assessment.

(4) The detailed rules governing an adaptation period and its assessment as well as the status of an applicant under supervision shall be laid down by the competent authority.

(5) The status enjoyed in the State by a person undergoing an adaptation period pursuant to this Part, in particular in the matter of right of residence as well as obligations, social rights and benefits, allowances and remuneration, shall be established by the relevant authorities in the State in accordance with applicable European Union law.

Aptitude test

24. (1) An aptitude test referred to in this Part shall comprise a test limited to the professional knowledge of the applicant, carried out or recognised by the competent authority, with the aim of assessing the ability of the applicant to pursue the relevant regulated profession in the State.

(2) In order to permit an aptitude test to be carried out, a competent authority shall draw up a list of subjects which, on the basis of a comparison of the education and training required in the State and that received by the applicant, are not covered by the diploma or other evidence of formal qualifications possessed by the applicant.

(3) An aptitude test must take account of the fact that the applicant is a qualified professional in the home Member State or the Member State from which he or she comes.

(4) An aptitude test shall cover subjects to be selected from those on the list referred to in paragraph (2), knowledge of which is essential in order to be able to pursue the particular profession in the State.

(5) In addition to the matters referred to in paragraph (4), an aptitude test may also include knowledge of the professional rules applicable to the activities in question in the State.

(6) The status in the State of an applicant undertaking an aptitude test pursuant to this Part shall be determined by the relevant authorities in the State.

Part 6

AUTOMATIC RECOGNITION OF PROFESSIONAL EXPERIENCE IN CRAFT, COMMERCE AND
INDUSTRY SECTORS*Scope of Part 6*

25. This Part applies to a person seeking to pursue professional activity in the State in one of the activities listed in Annex IV to the Directive.

Automatic recognition of professional experience

26. (1) If—

- (a) access to, or pursuit of, one of the activities listed in Annex IV to the Directive, in the State, is contingent upon possession of general, commercial or professional knowledge and aptitudes, and
- (b) the activity has been pursued in accordance with the relevant requirements of Regulation 27, 28 or 29,

previous pursuit of the activity in another Member State shall be recognised by the competent authority in the State as sufficient proof of such knowledge and aptitudes.

(2) The competent authority shall issue a certificate to the effect that a person's professional experience has been recognised in accordance with paragraph (1).

Activities referred to in list I of Annex IV to Directive

27. (1) Subject to paragraphs (2) and (3), for the activities in list I of Annex IV to the Directive, the activity in question must have been previously pursued—

- (a) for six consecutive years on a self-employed basis or as a manager of an undertaking,
- (b) for three consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary proves that he or she has received previous training of at least three years for the activity in question, evidenced by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid,
- (c) for four consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary can prove that he or she has received, for the activity in question, previous training of at least two years' duration, attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid,
- (d) for three consecutive years on a self-employed basis, if the beneficiary can prove that he or she has pursued the activity in question on an employed basis for at least five years, or

- (e) for five consecutive years in an executive position, of which at least three years involved technical duties and responsibility for at least one department of the company, if the beneficiary can prove that he or she has received, for the activity in question, previous training of at least three years' duration, as attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid.

(2) In the cases referred to in paragraph (1)(a) and (d), the activity must not have finished more than 10 years before the date on which the complete application was submitted by the person concerned to the competent authority.

(3) Paragraph (1)(e) shall not apply to activities in Group ex 855, hairdressing establishments, of the International Standard Industrial Classification (ISIC) nomenclature.

Activities referred to in list II of Annex IV to Directive

28. (1) Subject to paragraph (2), for the activities in list II of Annex IV to the Directive, the activity in question must have been previously pursued—

- (a) for five consecutive years on a self-employed basis or as a manager of an undertaking,
- (b) for three consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary proves that he or she has received previous training of at least three years for the activity in question, evidenced by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid,
- (c) for four consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary can prove that he or she has received, for the activity in question, previous training of at least two years' duration, attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid,
- (d) for three consecutive years on a self-employed basis or as a manager of an undertaking, if the beneficiary can prove that he or she has pursued the activity in question on an employed basis for at least five years,
- (e) for five consecutive years on an employed basis, if the beneficiary can prove that he or she has received, for the activity in question, previous training of at least three years' duration, as attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid, or
- (f) for six consecutive years on an employed basis, if the beneficiary can prove that he or she has received previous training in the activity in question of at least two years' duration, as attested by a certificate

recognised by the other Member State or judged by a competent professional body to be fully valid.

(2) In the cases referred to in paragraph (1)(a) and (d), the activity must not have finished more than 10 years before the date on which the complete application was submitted by the person concerned to the competent authority.

Activities referred to in list III of Annex IV to Directive

29. (1) Subject to paragraph (2), for the activities in list III of Annex IV to the Directive, the activity in question must have been previously pursued—

- (a) for three consecutive years, either on a self-employed basis or as a manager of an undertaking,
- (b) for two consecutive years, either on a self-employed basis or as a manager of an undertaking, if the beneficiary can prove that he or she has received previous training for the activity in question, as attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid,
- (c) for two consecutive years, either on a self-employed basis or as a manager of an undertaking, if the beneficiary can prove that he or she has pursued the activity in question on an employed basis for at least three years, or
- (d) for three consecutive years, on an employed basis, if the beneficiary can prove that he or she has received previous training for the activity in question, as attested by a certificate recognised by the other Member State or judged by a competent professional body to be fully valid.

(2) In the cases referred to in paragraph (1)(a) and (c), the activity must not have finished more than 10 years before the date on which the complete application was submitted by the person concerned to the competent authority.

Part 7

AUTOMATIC RECOGNITION — DOCTORS OF MEDICINE

Automatic recognition of doctors

30. (1) Subject to paragraphs (2) and (5), the competent authority in the State for medical practitioners shall recognise evidence of formal qualifications in basic medical training listed in point 5.1.1 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 24 of the Directive, and shall, for the purposes of access to and pursuit of the profession of medical practitioner in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Evidence of formal qualification referred to in paragraph (1) must be issued by the appropriate authority in the relevant Member State and

accompanied by any certificate listed in point 5.1.1 of Annex V to the Directive for such qualification.

(3) Subject to paragraphs (4) and (5), the competent authority in the State for medical practitioners shall recognise evidence of formal qualifications as a specialised doctor listed in point 5.1.2 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 25 of the Directive, and shall, for the purposes of access to and pursuit of the profession of medical practitioner in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(4) Evidence of formal qualification referred to in paragraph (3) must be issued by the appropriate authority in the relevant Member State and accompanied by any certificate listed in point 5.1.2 of Annex V to the Directive for such qualification.

(5) Paragraphs (1) and (3) do not affect the acquired rights referred to in Regulation 33 and Part 14.

(6) Subject to paragraph (7), the competent authority in the State for medical practitioners shall recognise, for the purpose of pursuing general medical practice in the State in the framework of the State's social security system, evidence of formal qualifications listed in point 5.1.4 of Annex V to the Directive and issued in accordance with the minimum training conditions laid down in Article 28 of the Directive.

(7) Paragraph (6) does not affect the acquired rights referred to in Regulation 34.

(8) In this Regulation, "evidence of formal qualifications as a specialised doctor" is such evidence awarded by the competent authority, referred to in point 5.1.2 of Annex V to the Directive, as corresponds, for the specialised training in question, to the titles in use in the various Member States and referred to in point 5.1.3 of that Annex.

Training of doctors

31. The competent authority in the State for medical practitioners shall ensure that training of medical practitioners in the State satisfies the requirements of Articles 24, 25 and 28 of the Directive.

Access to and pursuit of professional activities of doctors

32. The competent authority in the State for medical practitioners shall make access to, and the pursuit of, the professional activities of medical practitioners in the State subject to possession of evidence of formal qualifications referred to in point 5.1.1, 5.1.2 or 5.1.4 of Annex V to the Directive, attesting that the applicant, over the duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 24(3) of the Directive.

Acquired rights specific to specialised doctors

33. (1) The competent authority in the State for medical practitioners may require of specialised doctors whose part-time specialist medical training was governed by legislative, regulatory and administrative provisions in force as of 20 June 1975 and who began their specialist training no later than 31 December 1983 that their evidence of formal qualifications be accompanied by a certificate stating that they have been effectively and lawfully engaged in the relevant activities for at least three consecutive years during the five years preceding the award of that certificate.

(2) The competent authority in the State for medical practitioners shall recognise the qualification of specialised doctor awarded in Spain to doctors who completed their specialist training before 1 January 1995, even if that training does not satisfy the minimum training requirements provided for in Article 25 of the Directive, in so far as that qualification is accompanied by a certificate issued by the competent Spanish authorities and attesting that the person concerned has passed the examination in specific professional competence held in the context of exceptional measures concerning recognition laid down in Royal Decree 1497/99, with a view to ascertaining that the person concerned possesses a level of knowledge and skill comparable to that of doctors who possess a qualification as a specialised doctor defined for Spain in points 5.1.2 and 5.1.3 of Annex V to the Directive.

(3) The competent authority in the State for medical practitioners shall recognise the qualification of specialised doctor awarded in Italy, and listed in points 5.1.2 and 5.1.3 of Annex V to the Directive, to doctors who started their specialist training after 31 December 1983 and before 1 January 1991, despite the training concerned not satisfying all the training requirements set out in Article 25 of the Directive, if the qualification is accompanied by a certificate issued by the competent Italian authorities stating that the doctor concerned has effectively and lawfully been engaged, in Italy, in the activities of a medical specialist in the same specialist area concerned, for at least seven consecutive years during the 10 years preceding the award of the certificate.

Acquired rights specific to general practitioners

34. (1) The competent authority in the State for medical practitioners shall recognise the right to pursue the activities of a general practitioner in the framework of the State's national social security system, without the evidence of formal qualifications referred to in point 5.1.4 of Annex V to the Directive, conferred on all doctors who enjoy that right as of the reference date stated in that point by virtue of provisions applicable to the medical profession giving access to the professional activities of doctor with basic training and who are established as of that date in the State, having benefited from the provisions of Articles 21 or 23 of the Directive.

(2) The competent authority in the State for medical practitioners shall, on demand, issue a certificate stating the holder's right to pursue the activities of general practitioner in the framework of the State's national social security system, without the evidence of formal qualifications referred to in point 5.1.4

of Annex V to the Directive, to doctors established in the State who enjoy acquired rights pursuant to paragraph (1).

(3) The competent authority in the State for medical practitioners shall recognise certificates issued by competent authorities in other Member States pursuant to Article 30 of the Directive and shall give such certificates the same effect in the State as evidence of formal qualifications which it awards and which permit the pursuit of the activities of a general practitioner in the framework of the State's national social security system.

Part 8

AUTOMATIC RECOGNITION — NURSES RESPONSIBLE FOR GENERAL CARE

Automatic recognition of nurses responsible for general care

35. (1) Subject to paragraphs (2) and (3), the competent authority in the State for general nurses shall recognise evidence of formal qualifications as a nurse responsible for general care listed in point 5.2.2 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 31 of the Directive, and shall, for the purposes of access to and pursuit of the profession of general nurse in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Evidence of formal qualification referred to in paragraph (1) must be issued by the appropriate authority in the relevant Member State.

(3) Paragraph (1) does not affect the acquired rights referred to in Regulation 38 and Part 14.

Training of nurses responsible for general care

36. The competent authority in the State for general nurses shall ensure that training of general nurses in the State satisfies the requirements of Article 31 of the Directive.

Access to and pursuit of professional activities of nurses responsible for general care

37. The competent authority in the State for general nurses shall make access to, and the pursuit of, the professional activities of nurses responsible for general care in the State subject to possession of evidence of formal qualifications referred to in point 5.2.2 of Annex V to the Directive, attesting that the applicant, over the duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 31(6) and (7) of the Directive.

Acquired rights specific to nurses responsible for general care

38. (1) Notwithstanding Part 14, the acquired rights provided for in that Part shall only apply to nurses responsible for general care where the professional activities included full responsibility for the planning, organisation and administration of nursing care delivered to the patient.

(2) The competent authority in the State for general nurses shall recognise evidence of formal qualifications in nursing that—

- (a) were awarded in Poland, to nurses who completed training before 1 May 2004, which did not comply with the minimum training conditions laid down in Article 31 of the Directive, and
- (b) are attested by the diploma “bachelor” which was obtained on the basis of a special upgrading programme contained in—
 - (i) Article 11 of the Act of 20 April 2004 on the amendment of the Act on professions of nurse and midwife and on some other legal acts (Official Journal of the Republic of Poland of 2004 No 92, pos. 885 and of 2007, No 176, pos. 1237) and the Regulation of the Minister of Health of 11 May 2004 on the detailed conditions of delivering studies for nurses and midwives, who hold a certificate of secondary school (final examination — matura) and are graduates of medical lyceum and medical vocational schools teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 2004 No 110, pos. 1170 and of 2010 No 65, pos. 420); or
 - (ii) Article 52.3 point 2 of the Act of 15 July 2011 on professions of nurse and midwife (Official Journal of the Republic of Poland of 2011 No 174, pos. 1039) and the Regulation of the Minister of Health of 14 June 2012 on the detailed conditions of delivering higher education courses for nurses and midwives who hold a certificate of secondary school (final examination —matura) and are graduates of a medical secondary school or a post-secondary school teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 2012, pos. 770),

for the purpose of verifying that the nurse concerned has a level of knowledge and competence comparable to that of nurses holding the qualifications listed for Poland in point 5.2.2 of Annex V to the Directive.

(3) In the case of an applicant who trained as a nurse responsible for general care in Romania and whose training does not satisfy the minimum training requirements laid down in Article 31 of the Directive, the competent authority in the State for general nurses shall recognise the following evidence of formal qualifications as a nurse responsible for general care as being sufficient proof, provided that that evidence is accompanied by a certificate stating that the applicant has effectively and lawfully been engaged in the activities of a nurse responsible for general care in Romania, including taking full responsibility for the planning, organisation and carrying out of the nursing care of patients, for a period of at least three consecutive years during the five years prior to the date of issue of the certificate:

- (a) Certificat de competențe profesionale de asistent medical generalist with post-secondary education obtained from a școală postliceală, attesting to training started before 1 January 2007;

- (b) Diplomă de absolvire de asistent medical generalist with short-time higher education studies, attesting to training started before 1 October 2003;
- (c) Diplomă de licență de asistent medical generalist with long-time higher education studies, attesting to training started before 1 October 2003.

Part 9

AUTOMATIC RECOGNITION — DENTAL PRACTITIONERS

Automatic recognition of dental practitioners

39. (1) Subject to paragraphs (3) and (4), the competent authority in the State for dentists shall recognise evidence of formal qualifications as a dental practitioner listed in point 5.3.2 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 34 of the Directive, and shall, for the purposes of access to and pursuit of the profession of dentist in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Subject to paragraphs (3) and (4), the competent authority in the State for dentists shall recognise evidence of formal qualifications as a specialised dental practitioner listed in point 5.3.3 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 35 of the Directive, and shall, for the purposes of access to and pursuit of the profession of dental specialist in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(3) Evidence of formal qualifications referred to in paragraph (1) or (2) must be issued by the appropriate authority in the relevant Member State and accompanied by any certificate listed in point 5.3.2 or 5.3.3, as appropriate, of Annex V to the Directive for such qualifications.

(4) Paragraphs (1) and (2) do not affect the acquired rights referred to in Regulation 42 and Part 14.

Dental training

40. (1) The competent authority in the State for dentists shall ensure that basic dental training in the State satisfies the requirements of Article 34 of the Directive.

(2) The competent authority in the State for dentists shall ensure that specialist dental training in the State satisfies the requirements of Article 35 of the Directive.

Access to and pursuit of professional activities of dental practitioners

41. (1) The competent authority in the State for dentists shall make access to, and the pursuit of, the professional activities of dental practitioners in the State subject to possession of evidence of formal qualifications referred to in point 5.3.2 of Annex V to the Directive, attesting that the applicant, over the

duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 34(3) of the Directive.

(2) For the purposes of the Directive and these Regulations, the professional activities of dental practitioners are the activities referred to in paragraph (3) and pursued under the professional qualifications listed in point 5.3.2 of Annex V to the Directive.

(3) The competent authority in the State for dentists shall ensure that dental practitioners are generally able to gain access to and pursue the activities of prevention, diagnosis and treatment of anomalies and diseases affecting the teeth, mouth, jaws and adjoining tissue, having due regard to the regulatory provisions and rules of professional ethics on the reference dates referred to in point 5.3.2 in Annex V to the Directive.

Acquired rights specific to dental practitioners

42. (1) Subject to paragraphs (2) and (3), the competent authority in the State for dentists shall recognise evidence of formal qualifications as a doctor issued in Italy, Spain, Austria, the Czech Republic, Slovakia or Romania to an applicant who began his or her medical training on or before the reference date stated in that point 5.3.2 of Annex V to the Directive for the Member State concerned, where it is accompanied by a certificate issued by the competent authority of that Member State confirming that the applicant:

- (a) has been effectively, lawfully and principally engaged in that Member State in the activities referred to in Regulation 41(3) for at least three consecutive years during the five years preceding the award of the certificate; and
- (b) is authorised to pursue the said activities under the same conditions as holders of evidence of formal qualifications listed for that Member State in point 5.3.2 of Annex V to the Directive.

(2) An applicant who has successfully completed at least three years of study, certified by the competent authority in the Member State concerned as being equivalent to the training referred to in Article 34 of the Directive, shall be exempt from the three-year practical work experience referred to in paragraph (1)(a).

(3) With regard to the Czech Republic and Slovakia, evidence of formal qualifications obtained in the former Czechoslovakia shall be accorded the same level of recognition as Czech and Slovak evidence of formal qualifications and under the same conditions as set out in paragraphs (1) and (2).

(4) Subject to paragraphs (5) and (6), the competent authority in the State for dentists shall recognise evidence of formal qualifications as a doctor issued in Italy to an applicant who began his or her university medical training after 28 January 1980 and no later than 31 December 1984, where it is accompanied by a certificate issued by the competent Italian authorities confirming that the applicant—

- (a) passed the relevant aptitude test held by the competent Italian authorities with a view to establishing that he or she possesses a level of knowledge and skills comparable to that of persons possessing evidence of formal qualifications listed for Italy in point 5.3.2 of Annex V to the Directive,
- (b) has been effectively, lawfully and principally engaged in the activities referred to in Regulation 41(3) in Italy for at least three consecutive years during the five years preceding the award of the certificate, and
- (c) is authorised to engage in or is effectively, lawfully and principally engaged in the activities referred to in Regulation 41(3), under the same conditions as the holders of evidence of formal qualifications listed for Italy in point 5.3.2 of Annex V to the Directive.

(5) An applicant who has successfully completed at least three years of study certified by the competent Italian authorities as being equivalent to the training referred to in Article 34 of the Directive shall be exempt from the aptitude test referred to in paragraph (4)(a).

(6) An applicant who began his or her university medical training after 31 December 1984 shall be treated in the same way as a person to which paragraph (4) applies, provided that he or she began the three years of study referred to in paragraph (5) before 31 December 1994.

(7) As regards evidence of formal qualifications of dental practitioners, the competent authority in the State for dentists shall recognise such evidence pursuant to Article 21 of the Directive in cases where the applicant began his or her training on or before 18 January 2016.

(8) The competent authority in the State for dentists shall recognise evidence of formal qualifications as a doctor issued in Spain to an applicant who began his or her university medical training between 1 January 1986 and 31 December 1997 where it is accompanied by a certificate issued by the Spanish competent authorities confirming that the applicant—

- (a) has successfully completed at least three years of study, certified by the Spanish competent authorities as being equivalent to the training referred to in Article 34 of the Directive,
- (b) was effectively, lawfully and principally engaged in the activities referred to in Regulation 41(3) in Spain for at least three consecutive years during the five years preceding the award of the certificate, and
- (c) is authorised to engage in or is effectively, lawfully and principally engaged in the activities referred to in Regulation 41(3), under the same conditions as the holders of evidence of formal qualifications listed for Spain in point 5.3.2 of Annex V to the Directive.

Part 10

AUTOMATIC RECOGNITION — VETERINARY SURGEONS

Automatic recognition of veterinary surgeons

43. (1) Subject to paragraphs (2) and (3), the competent authority in the State for veterinary practitioners shall recognise evidence of formal qualifications as a veterinary surgeon listed in point 5.4.2 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 38 of the Directive and shall, for the purposes of access to and pursuit of the profession of veterinary practitioner in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualifications obtained in the State.

(2) Evidence of formal qualifications referred to in paragraph (1) must be issued by the appropriate authority in the relevant Member State and accompanied by any certificate listed in point 5.4.2 of Annex V to the Directive for such qualifications.

(3) Paragraphs (1) and (2) do not affect the acquired rights referred to in Regulation 46 and Part 14.

Training of veterinary surgeons

44. The competent authority in the State for veterinary practitioners shall ensure that training of veterinary practitioners in the State satisfies the requirements of Article 38 of the Directive.

Access to and pursuit of professional activities of veterinary surgeons

45. The competent authority in the State for veterinary practitioners shall make access to, and the pursuit of, the professional activities of veterinary practitioners in the State subject to possession of evidence of formal qualifications referred to in point 5.4.2 of Annex V to the Directive, attesting that the applicant, over the duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 38(3) of the Directive.

Acquired rights specific to veterinary surgeons

46. Without prejudice to Regulation 63, the competent authority in the State for veterinary practitioners shall recognise the qualifications of an applicant whose formal qualifications were issued by, or whose training commenced in, Estonia before 1 May 2004, if they are accompanied by a certificate stating that the applicant has effectively and lawfully been engaged in the activities in question in Estonia for at least five consecutive years during the seven years prior to the date of issue of the certificate.

Part 11

AUTOMATIC RECOGNITION — MIDWIVES

Automatic recognition of midwives

47. (1) Subject to paragraph (2), the competent authority in the State for midwives shall recognise evidence of formal qualifications as a midwife listed in point 5.5.2 of Annex V to the Directive which satisfy the minimum training

conditions referred to in Article 40 of the Directive and the requirements of Regulation 50, and shall, for the purposes of access to and pursuit of the profession of midwife in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Paragraph (1) does not affect the acquired rights referred to in Regulation 51 and Part 14.

Training of midwives

48. The competent authority in the State for midwives shall ensure that training of midwives in the State satisfies the requirements of Article 40 of the Directive.

Access to and pursuit of professional activities of midwife

49. (1) This Part shall apply to the activities of midwives in the State, without prejudice to paragraph (3), pursued under the professional title of ‘registered midwife (RM)’.

(2) The competent authority in the State for midwives shall make access to, and the pursuit of, the professional activities of midwives in the State subject to possession of evidence of formal qualifications referred to in point 5.5.2 of Annex V to the Directive, attesting that the applicant, over the duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 40(3) of the Directive.

(3) The competent authority in the State for midwives shall ensure that midwives are able to gain access to and pursue at least the following activities:

- (a) provision of sound family planning information and advice;
- (b) diagnosis of pregnancies and monitoring normal pregnancies;
- (c) carrying out the examinations necessary for the monitoring of the development of normal pregnancies;
- (d) prescribing or advising on the examinations necessary for the earliest possible diagnosis of pregnancies at risk;
- (e) provision of programmes of parenthood preparation and complete preparation for childbirth including advice on hygiene and nutrition;
- (f) caring for and assisting the mother during labour and monitoring the condition of the foetus in utero by the appropriate clinical and technical means;
- (g) conducting spontaneous deliveries including where required episiotomies and in urgent cases breech deliveries;
- (h) recognising the warning signs of abnormality in the mother or infant which necessitate referral to a doctor and assisting the latter where appropriate; taking the necessary emergency measures in the doctor's

absence, in particular the manual removal of the placenta, possibly followed by manual examination of the uterus;

- (i) examining and caring for the new-born infant; taking all initiatives which are necessary in case of need and carrying out where necessary immediate resuscitation;
- (j) caring for and monitoring the progress of the mother in the postnatal period and giving all necessary advice to the mother on infant care to enable her to ensure the optimum progress of the new-born infant;
- (k) carrying out treatment prescribed by doctors;
- (l) drawing up the necessary written reports.

Procedures for recognition of evidence of formal qualifications as midwife

50. (1) The evidence of formal qualifications as a midwife referred to in point 5.5.2 of Annex V to the Directive shall be subject to automatic recognition under Regulation 47 in so far as they satisfy one of the following criteria:

- (a) full-time training of at least three years as a midwife, which may in addition be expressed with the equivalent ECTS credits, consisting of at least 4,600 hours of theoretical and practical training, with at least one third of the minimum duration representing clinical training;
- (b) full-time training as a midwife of at least two years, which may in addition be expressed with the equivalent ECTS credits, consisting of at least 3,600 hours, contingent upon possession of evidence of formal qualifications as a nurse responsible for general care referred to in point 5.2.2 of Annex V to the Directive;
- (c) full-time training as a midwife of at least 18 months, which may in addition be expressed with the equivalent ECTS credits, consisting of at least 3,000 hours, contingent upon possession of evidence of formal qualifications as a nurse responsible for general care referred to in point 5.2.2 of Annex V of the Directive, and followed by one year's professional practice for which a certificate has been issued in accordance with paragraph (2).

(2) The certificate referred to in paragraph (1)(c) must—

- (a) be issued by the competent authority in the home Member State, and
- (b) certify that the holder, after obtaining evidence of formal qualifications as a midwife, has satisfactorily pursued all the activities of a midwife for a corresponding period in a hospital or a health care establishment approved for that purpose.

Acquired rights specific to midwives

51. (1) In the case of an applicant whose evidence of formal qualifications as a midwife satisfies all the minimum training requirements laid down in Article

40 of the Directive but, by virtue of Regulation 50, is not recognised unless it is accompanied by a certificate of professional practice referred to in Regulation 50(2), the competent authority in the State for midwives shall recognise as sufficient proof evidence of formal qualifications issued in the relevant Member State before the reference date referred to in point 5.5.2 of Annex V to the Directive for that Member State, where it is accompanied by a certificate stating that the applicant has been effectively and lawfully engaged in the activities in question for at least two consecutive years during the five years preceding the award of the certificate.

(2) The competent authority in the State for midwives shall recognise automatically those qualifications where the applicant started training as a midwife before 18 January 2016, and the admission requirement for such training was 10 years of general education or an equivalent level for route I in Article 40(1)(a) of the Directive, or completed training as a nurse responsible for general care as attested by evidence of formal qualification referred to in point 5.2.2 of Annex V to the Directive before starting a midwifery training falling under route II in Article 40(1)(b) of the Directive.

(3) The conditions laid down in paragraph (1) shall also apply to an applicant whose evidence of formal qualifications as a midwife certifies completion of training received in the territory of the former German Democratic Republic and satisfying all the minimum training requirements laid down in Article 40 of the Directive, but where the evidence of formal qualifications, by virtue of Regulation 50, is not recognised unless it is accompanied by the certificate of professional experience referred to in Regulation 50(2), where it attests a course of training which began before 3 October 1990.

(4) The competent authority in the State for midwives shall recognise evidence of formal qualifications in midwifery that—

- (a) were awarded in Poland, to midwives who completed training before 1 May 2004, which did not comply with the minimum training requirements laid down in Article 40 of the Directive, and
- (b) are attested by the diploma ‘bachelor’ which was obtained on the basis of a special upgrading programme contained in—
 - (i) Article 11 of the Act of 20 April 2004 on the amendment of the Act on professions of nurse and midwife and on some other legal acts (Official Journal of the Republic of Poland of 2004 No 92, pos. 885 and of 2007 No 176, pos. 1237) and the Regulation of the Minister of Health of 11 May 2004 on the detailed conditions of delivering studies for nurses and midwives, who hold a certificate of secondary school (final examination — matura) and are graduates of medical lyceum and medical vocational schools teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 2004 No 110, pos. 1170 and of 2010 No 65, pos. 420), or

- (ii) Article 53.3 point 3 of the Act of 15 July 2011 on professions of nurse and midwife (Official Journal of the Republic of Poland of 2011 No 174, pos. 1039) and the Regulation of the Minister of Health of 14 June 2012 on the detailed conditions of delivering higher education courses for nurses and midwives who hold a certificate of secondary school (final examination — matura) and are graduates of a medical secondary school or a post-secondary school teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 2012, pos. 770),

for the purpose of verifying that the midwife concerned has a level of knowledge and competence comparable to that of midwives holding the qualifications listed for Poland in point 5.5.2 of Annex V to the Directive.

(5) In the case of an applicant whose evidence of formal qualifications as a midwife (asistent medical obstetrică-ginecologie/obstetrics-gynecology nurse) were awarded in Romania before 1 January 2007, and which do not satisfy the minimum training requirements laid down in Article 40 of the Directive, the competent authority in the State for midwives shall recognise the said evidence of formal qualifications as being sufficient proof for the purposes of carrying out the activities of midwife if they are accompanied by a certificate stating that the applicant has effectively and lawfully been engaged in the activities of midwife in Romania for at least five consecutive years during the seven years prior to the issue of the certificate.

(6) Acquired rights in midwifery shall not apply to the following qualifications which were obtained in Croatia before 1 July 2013: via medicinska sestra ginekolo-opstetrikog smjera (High Gynaecology-Obstetrical Nurse), medicinska sestra ginekolo-opstetrikog smjera (Gynaecology-Obstetrical Nurse), via medicinska sestra primaljskog smjera (High Nurse with Midwifery Degree), medicinska sestra primaljskog smjera (Nurse with Midwifery Degree), ginekolo-opstetrika primalja (Gynaecology-Obstetrical Midwife) and primalja (Midwife).

Part 12

AUTOMATIC RECOGNITION — PHARMACISTS

Automatic recognition of pharmacists

52. (1) Subject to paragraphs (2) and (3), the competent authority in the State for pharmacists shall recognise evidence of formal qualifications as a pharmacist listed in point 5.6.2 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 44 of the Directive, and shall, for the purposes of access to and pursuit of the profession of pharmacist in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Evidence of formal qualifications referred to in paragraph (1) must be issued by the appropriate authority in the relevant Member State and

accompanied by any certificate listed in point 5.6.2 of Annex V to the Directive for such qualifications.

(3) Paragraph (1) does not affect the acquired rights referred to in Regulation 55 and Part 14.

Training of pharmacists

53. The competent authority in the State for pharmacists shall ensure that training of pharmacists in the State satisfies the requirements of Article 44 of the Directive.

Access to and pursuit of professional activities of pharmacists

54. (1) For the purposes of these Regulations and the Directive, the activities of a pharmacist are those, access to which and pursuit of which are contingent, in the State, upon professional qualifications and which are open to holders of evidence of formal qualifications of the types listed in point 5.6.2 of Annex V to the Directive.

(2) The competent authority in the State for pharmacists shall make access to, and the pursuit of, the professional activities of pharmacists in the State subject to possession of evidence of formal qualifications referred to in point 5.6.2 of Annex V to the Directive, attesting that the applicant, over the duration of his or her training, has acquired, as appropriate, the knowledge, skills and competences referred to in Article 44(3) of the Directive.

(3) The competent authority in the State for pharmacists shall ensure that the holders of evidence of formal qualifications in pharmacy at university level or a level recognised as equivalent, which satisfy the requirements of Article 44 of the Directive, are able to gain access to and pursue at least the following activities, subject to the requirement, where appropriate, of supplementary professional experience:

- (a) preparation of the pharmaceutical form of medicinal products;
- (b) manufacture and testing of medicinal products;
- (c) testing of medicinal products in a laboratory for the testing of medicinal products;
- (d) storage, preservation and distribution of medicinal products at the wholesale stage;
- (e) supply, preparation, testing, storage, distribution and dispensing of safe and efficacious medicinal products of the required quality in pharmacies open to the public;
- (f) preparation, testing, storage and dispensing of safe and efficacious medicinal products of the required quality in hospitals;
- (g) provision of information and advice on medicinal products as such, including on their appropriate use;

- (h) reporting of adverse reactions of pharmaceutical products to the competent authorities;
- (i) personalised support for patients who administer their medication;
- (j) contribution to local or national public health campaigns.

Acquired rights specific to pharmacists

55. The competent authority in the State for pharmacists shall recognise a formal qualification as a pharmacist to which the derogation in Article 2(4)(a) of Council Directive 85/432/EEC of 16 September 1985¹⁹ applied, and which, but for the repeal of that Directive by Article 62 of the Professional Qualifications Directive, would have entitled the holder to recognition as a person having a qualification appropriate for practice.

Part 13

AUTOMATIC RECOGNITION — ARCHITECTS

Automatic recognition of architects

56. (1) Subject to paragraphs (2) and (3), the competent authority in the State for architects shall recognise evidence of formal qualifications as an architect listed in point 5.7.1 of Annex V to the Directive which satisfy the minimum training conditions referred to in Article 46 or 47 of the Directive, and shall, for the purposes of access to and pursuit of the profession of architect in the State, give such evidence the same effect in the State as the equivalent evidence of formal qualification obtained in the State.

(2) Evidence of formal qualifications referred to in paragraph (1) must be issued by the appropriate authority in the relevant Member State and accompanied by any certificate listed in point 5.7.1 of Annex V to the Directive for such qualifications.

(3) Paragraph (1) does not affect the acquired rights referred to in Regulation 59 and Part 14.

(4) Evidence of formal qualifications as an architect referred to in point 5.7.1 of Annex V to the Directive, which is subject to automatic recognition pursuant to paragraph (1), proves completion of a course of training which began not earlier than during the academic reference year referred to in that Annex.

Training of architects

57. The competent authority in the State for architects shall ensure that training of architects in the State satisfies the requirements of Article 46 or 47 of the Directive.

Pursuit of professional activities of architect

58. (1) For the purposes of these Regulations, the professional activities of an architect are the activities regularly carried out under the professional title of 'architect'.

¹⁹OJ No. L 253, 24.9.1985, p. 34.

(2) A person who is authorised to use the title ‘architect’ pursuant to a law which gives the competent authority of a Member State the power to award that title to persons who are especially distinguished by the quality of their work in the field of architecture shall be deemed to satisfy the conditions required for the pursuit of the activities of an architect, under the professional title of ‘architect’.

(3) The architectural nature of the activities of a person to which paragraph (2) relates shall be attested by a certificate awarded by the home Member State.

Acquired rights specific to architects

59. (1) The competent authority in the State for architects shall recognise—

- (a) evidence of formal qualifications as an architect listed in Annex VI to the Directive attesting a course of training which began no later than the reference academic year referred to in that Annex, even if they do not satisfy the minimum requirements laid down in Article 46 of the Directive,
- (b) certificates issued by the competent authorities of the Federal Republic of Germany attesting that evidence of formal qualifications issued on or after 8 May 1945 by the competent authorities of the German Democratic Republic is equivalent to evidence listed in Annex VI to the Directive, and
- (c) evidence of formal qualifications as an architect listed in Annex V to the Directive which do not satisfy the minimum requirements laid down in Article 46 of the Directive, where the training started before 18 January 2016,

(2) Without prejudice to paragraph (1), and subject to paragraph (3), the competent authority in the State for architects shall recognise certificates issued by the relevant authorities in the following states from the following dates:

- (a) 1 January 1995 for Austria, Finland and Sweden;
- (b) 1 May 2004 for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia;
- (c) 1 July 2013 for Croatia; and
- (d) 5 August 1987 for the other Member States.

(3) The certificates referred to in paragraph (2) must certify that the holder—

- (a) was authorised, no later than the respective date, to use the professional title of architect, and
- (b) has been effectively engaged, under the applicable rules in the relevant Member State, in the activities in question for at least three

consecutive years during the five years preceding the award of the certificate.

(4) The competent authority in the State for architects shall recognise evidence of completion of training existing as of 5 August 1985 and commenced no later than 17 January 2014, provided by ‘Fachhochschulen’ in the Federal Republic of Germany over a period of three years, satisfying the requirements set out in Article 46(2) of the Directive and giving access to the activities carried out in that Member State under the professional title of ‘architect’, in so far as the training was followed by a four-year period of professional experience in the Federal Republic of Germany, as attested by a certificate issued by the competent authority in whose roll the name of the architect wishing to benefit from this paragraph appears.

Part 14

AUTOMATIC RECOGNITION — COMMON ACQUIRED RIGHTS

Training begun before reference dates

60. Where evidence of formal qualifications as doctor giving access to the professional activities of doctor with basic training and specialised doctor, as nurse responsible for general care, as dental practitioner, as specialised dental practitioner, as veterinary surgeon, as midwife or as pharmacist does not satisfy all the training requirements referred to in Article 24, 25, 31, 34, 35, 38, 40 or 44 of the Directive, as appropriate, the competent authority in the State shall recognise as sufficient proof evidence of formal qualification issued in the relevant Member State insofar as such evidence attests successful completion of training which began before the relevant reference date laid down in point 5.1.1, 5.1.2, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2 or 5.6.2 of Annex V to the Directive and is accompanied by a certificate stating that the holder has been effectively and lawfully engaged in the activities in question for at least three consecutive years during the five years preceding the award of the certificate.

German Democratic Republic

61. The competent authority in the State shall recognise as sufficient proof evidence of formal qualification as doctor giving access to the professional activities of doctor with basic training and specialised doctor, as nurse responsible for general care, as dental practitioner, as specialised dental practitioner, as veterinary surgeon, as midwife or as pharmacist, obtained in the territory of the former German Democratic Republic, which does not satisfy all the minimum training requirements laid down in Article 24, 25, 31, 34, 35, 38, 40 or 44 of the Directive, as appropriate, where such evidence certifies successful completion of training which began before—

- (a) 3 October 1990 for a doctor with basic training, nurse responsible for general care, dental practitioner with basic training, specialised dental practitioner, veterinary surgeon, midwife or pharmacist, or
- (b) 3 April 1992 for a specialised doctor.

Czech Republic and Slovakia

62. (1) Without prejudice to Regulation 42(1) to (3), and subject to paragraph (2), the competent authority in the State shall recognise evidence of formal qualification as doctor giving access to the professional activities of doctor with basic training or specialised doctor, as nurse responsible for general care, as veterinary surgeon, as midwife, as pharmacist or as architect where—

- (a) the evidence of formal qualification was issued by the appropriate authority in the former Czechoslovakia, or
- (b) the evidence of formal qualification was issued by the appropriate authority in the Czech Republic or Slovakia and the person concerned commenced his or her training for such qualification before 1 January 1993,

and where the appropriate authority of either of the two aforementioned Member States attests that such evidence of formal qualification has the same legal validity within its territory as the evidence of formal qualification which it issues and, with respect to architects, as the evidence of formal qualification specified for those Member States in point 6 of Annex VI to the Directive, as regards access to the professional activities of doctor with basic training, specialised doctor, nurse responsible for general care, veterinary surgeon, midwife, pharmacist with respect to the activities referred to in Regulation 54(3) or architect with respect to the activities referred to in Regulation 58(1), and the pursuit of such activities.

(2) The attestation referred to in paragraph (1) must be accompanied by a certificate issued by the authority referred to in that paragraph stating that the person concerned has effectively and lawfully been engaged in the activities in question within its territory for at least three consecutive years during the five years prior to the date of issue of the certificate.

Estonia, Latvia and Lithuania

63. (1) Subject to paragraphs (2) and (3), the competent authority shall recognise evidence of formal qualification as doctor giving access to the professional activities of doctor with basic training or specialised doctor, as nurse responsible for general care, as dental practitioner, as specialised dental practitioner, as veterinary surgeon, as midwife, as pharmacist or as architect where—

- (a) the evidence of formal qualification was issued by the appropriate authority in the former Soviet Union,
- (b) the person concerned commenced his or her training in Estonia before 20 August 1991,
- (c) the person concerned commenced his or her training in Latvia before 21 August 1991, or
- (d) the person concerned commenced his or her training in Lithuania before 11 March 1990,

and where the appropriate authority of any of the three aforementioned Member States attests that such evidence has the same legal validity within its territory as the evidence which it issues and, with respect to architects, as the evidence of formal qualification specified for those Member States in point 6 of Annex VI to the Directive, as regards access to the professional activities of doctor with basic training, specialised doctor, nurse responsible for general care, dental practitioner, specialised dental practitioner, veterinary surgeon, midwife, pharmacist with respect to the activities referred to in Regulation 54(3) or architect with respect to the activities referred to in Regulation 58(1), and the pursuit of such activities.

(2) An attestation referred to in paragraph (1) must be accompanied by a certificate issued by the authority referred to in that paragraph stating that the person concerned has effectively and lawfully been engaged in the activities in question within its territory for at least three consecutive years during the five years prior to the date of issue of the certificate.

(3) With regard to evidence of formal qualification as a veterinary surgeon to which paragraph (1)(a) or (b) applies, an attestation referred to in paragraph (1) from the appropriate authority in Estonia must be accompanied by a certificate issued by that authority stating that the person concerned has effectively and lawfully been engaged in the activities in question within its territory for at least five consecutive years during the seven years prior to the date of issue of the certificate.

Slovenia and Croatia

64. (1) Without prejudice to Regulation 51(6), and subject to paragraph (2), the competent authority in the State shall recognise evidence of formal qualification, as doctor giving access to the professional activities of doctor with basic training and specialised doctor, as nurse responsible for general care, as dental practitioner, as specialised dental practitioner, as veterinary surgeon, as midwife, as pharmacist or as architect where—

- (a) the evidence of formal qualification was issued by the appropriate authority in the former Yugoslavia,
- (b) the person concerned commenced his or her training in Slovenia before 25 June 1991, or
- (c) the person concerned commenced his or her training in Croatia before 8 October 1991,

and where the appropriate authority of either of the two aforementioned Member States attests that such evidence has the same legal validity within its territory as the evidence which it issues and, with respect to architects, as the evidence of formal qualification specified for those Member States in point 6 of Annex VI to the Directive, as regards access to the professional activities of doctor with basic training, specialised doctor, nurse responsible for general care, dental practitioner, specialised dental practitioner, veterinary surgeon, midwife,

pharmacist with respect to the activities referred to in Regulation 54(3) or architect with respect to the activities referred to in Regulation 58(1), and the pursuit of such activities.

(2) An attestation referred to in paragraph (1) must be accompanied by a certificate issued by the relevant authority referred to in that paragraph stating that the person concerned has effectively and lawfully been engaged in the activities in question within its territory for at least three consecutive years during the five years prior to the date of issue of the certificate.

Different title for qualification

65. (1) Subject to paragraph (2), the competent authority in the State shall recognise as sufficient proof, for persons whose evidence of formal qualification as a doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife or pharmacist does not correspond to the title for the relevant Member State given in point 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2 or 5.6.2 of Annex V to the Directive, evidence of formal qualification issued by the appropriate authority in that Member State accompanied by a certificate issued by the competent authority or body.

(2) The certificate referred to in paragraph (1) shall state that the evidence of formal qualification certifies successful completion of training in accordance with Article 24, 25, 28, 31, 34, 35, 38, 40 or 44 of the Directive, as appropriate, and is treated by the authority which issued it in the same way as the qualification the title of which is listed in point 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2 or 5.6.2 of Annex V to the Directive, as appropriate.

Part 15

APPLICATIONS FOR RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Scope of Part 15

66. This Part applies to applications for recognition of professional qualifications under Parts 5 to 14.

Applications procedure

67. (1) An application shall be made to the competent authority in the State for the profession concerned.

(2) A competent authority in the State shall acknowledge receipt of an application within one month of receipt and inform the applicant of any missing documentation.

(3) Subject to paragraph (4), the procedure for examining an application shall be completed as quickly as possible and, in any case, result in a duly substantiated decision by the competent authority in the State within 3 months after the date of submission of the completed application file.

(4) The time period referred to in paragraph (3) may be extended by one month in the case of an application under Part 5 or 6.

Documentation and formalities

68. (1) A competent authority in the State may demand submission of the following documents and certificates for the purpose of considering an application:

- (a) proof that the applicant is an eligible person;
- (b) copies of the attestations of professional competence or of the evidence of formal qualifications giving access to the profession in question, and an attestation of the professional experience of the person concerned where applicable;
- (c) information concerning the applicant's training to the extent necessary in order to determine the existence of potential substantial differences with the required training in the State, as laid down in Regulation 22;
- (d) in the case of an application pursuant to Part 6, a certificate concerning the nature and duration of the activity issued by the competent authority or body in the home Member State or the Member State from which the applicant comes;
- (e) where that competent authority requires of persons wishing to take up a regulated profession proof that they are of good character or repute or that they have not been declared bankrupt, or suspends or prohibits the pursuit of that profession in the event of serious professional misconduct or a criminal offence, documents issued by competent authorities in the home Member State or the Member State from which the applicant comes, showing that those requirements are met;
- (f) where that competent authority requires proof of the matters referred to in subparagraph (e) and the competent authorities of the home Member State or of the Member State from which the applicant comes do not issue the documents referred to in that subparagraph, a declaration on oath made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary or qualified professional body of the home Member State or the Member State from which applicant comes, accompanied by a certificate from such authority or notary attesting the authenticity of the declaration on oath;
- (g) where that competent authority requires of nationals of the State wishing to take up the profession, a document relating to the physical or mental health of the applicant, the document required in the home Member State or, where the home Member State does not issue such a document, a certificate issued by a competent authority in the home Member State;
- (h) where that competent authority requires nationals of the State wishing to take up the profession to furnish—

- (i) proof of the applicant's financial standing, or
- (ii) proof that the applicant is insured against the financial risks arising from his or her professional liability in accordance with the laws and regulations in force in the State regarding the terms and extent of cover,

an attestation to that effect issued by the banks and insurance undertakings of another Member State;

- (i) where that competent authority so requires from nationals of the State wishing to pursue the profession, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions;
- (j) in the case of applications under Parts 7 to 14, and where the applicant satisfies the conditions of training required, a certificate from the competent authority of the home Member State stating that the evidence of formal qualifications is that covered by the Directive.

(2) A competent authority shall accept the documents and certificates referred to in paragraph (1) as sufficient evidence of the requirements to which they relate, unless the contrary is otherwise proved.

(3) Where it is impossible for an applicant to provide the information referred to in paragraph (1)(c), the competent authority shall address the competent authority, or any other relevant body in the home Member State, or the point of single contact in that state, assigned in accordance with Article 6 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006²⁰.

(4) Where a competent authority in the State is requested, by a person seeking to pursue a profession in another Member State pursuant to the Directive, to issue documents showing that the requirements referred to in the first paragraph of point 1(d) of Annex VII to the Directive have been satisfied, and it is the practice of the competent authority to provide such documents, the competent authority shall provide such documents within a period of two months.

(5) Where a solicitor or commissioner for oaths in the State witnesses a declaration on oath pursuant to the second paragraph of point 1d of Annex VII to the Directive, by a person seeking to pursue a profession in a Member State pursuant to the Directive, he or she shall issue a certificate attesting the authenticity of the declaration on oath.

(6) Where a competent authority in the State is requested, by a person seeking to pursue a profession in another Member State pursuant to the Directive, to issue a certificate referred to in point 1(e) of Annex VII to the Directive, the competent authority shall issue such certificate within a period of two months.

²⁰OJ No. L 376, 27.12.2006, p. 36.

(7) A competent authority in the State shall not accept the documents referred to in paragraph (1)(e), (f), (g) or (h) if they are more than three months old by the date on which they are submitted.

(8) A competent authority in the State shall guarantee the confidentiality of the information which it receives under this Regulation.

(9) Where an applicant is required to make a declaration on oath, and where the wording of the oath sworn by nationals of the State cannot be used by nationals of other Member States, the competent authority shall ensure that the applicant can use an appropriate equivalent wording.

Justified doubts

69. (1) In the event of justified doubts, a competent authority in the State may require from the competent authorities of another Member State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other Member State, as well as, where applicable, confirmation of the fact that the beneficiary fulfils, for the professions referred to in Parts 7 to 14, the minimum training conditions set out respectively in Articles 24, 25, 28, 31, 34, 35, 38, 40, 44 and 46 of the Directive.

(2) In cases of justified doubt, where evidence of formal qualifications has been issued by a competent authority in a Member State other than the State and includes training received in whole or in part in an establishment legally established in the territory of another Member State, a competent authority in the State may verify with the competent body in the Member State of origin of the award—

- (a) whether the training course at the establishment which gave the training has been formally certified by the educational establishment based in the Member State of origin of the award,
- (b) whether the evidence of formal qualifications issued is the same as that which would have been awarded if the course had been followed entirely in the Member State of origin of the award, and
- (c) whether the evidence of formal qualifications confers the same professional rights in the territory of the Member State of origin of the award.

(3) In the event of justified doubts, a competent authority in the State may require from the competent authorities of another Member State confirmation of the fact that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of his professional activities.

Exchange of information

70. Exchange of information between competent authorities in the State and competent authorities of other Member States under this Part, and Title III, Chapter IV of the Directive, shall take place via IMI.

Recognition of professional traineeship

71. (1) If access to a regulated profession in the State is contingent upon completion of a professional traineeship, the competent authority shall, when considering an application, recognise professional traineeships carried out in another Member State provided the traineeship is in accordance with the published guidelines referred to in paragraph (3), and shall take into account professional traineeships carried out in a state other than a Member State.

(2) Recognition of a professional traineeship pursuant to paragraph (1) shall not replace any requirements in place to pass an examination in order to gain access to the profession in question.

(3) The competent authorities of the regulated professions in the State to which this Regulation applies shall publish guidelines on the organisation and recognition of professional traineeships carried out in another Member State or in a state other than a Member State, in particular on the role of the supervisor of the professional traineeship.

Part 16

EUROPEAN PROFESSIONAL CARD

Scope of Part 16

72. (1) This Part applies to the professions listed in column 1 of Schedule 6.

(2) The rules on the procedure for the issuance of a European Professional Card contained in the Implementing Regulation shall apply to the professions referred to in paragraph (1).

Designation of competent authorities for European Professional Card applications

73. (1) The competent authorities listed in column 2 of Schedule 6 are designated as the competent authorities, for the purposes of these Regulations, the Directive and the Implementing Regulation, with responsibility for European Professional Card applications in respect of the corresponding professions listed in column 1 of that Schedule.

(2) The competent authorities assigned under this Regulation, and the assistance centre designated under Regulation 8, shall inform persons, including prospective applicants, about the functioning and the added value of a European Professional Card.

Purpose and effect of European Professional Card

74. (1) A holder of a professional qualification in a profession to which this Part applies may apply for a European Professional Card in accordance with this Part, the Directive and the Implementing Regulation or make use of the procedures in Parts 4 to 15 of these Regulations and the Directive.

(2) For the purpose of establishment in the State in a regulated profession pursuant to these Regulations and the Directive, the issuance of a European Professional Card by a competent authority in another Member State shall not

provide an automatic right to practise a particular profession in the State if there are registration requirements or other control procedures already in place in the State before a European Professional Card is introduced for that profession.

Application for European Professional Card — general provisions

75. (1) An applicant for a European Professional Card shall submit his or her application through the online tool provided by the European Commission pursuant to Article 4b of the Directive and shall provide supporting documents and information required under the Implementing Regulation.

(2) Within one week of receipt of an application for a European Professional Card to a competent authority in the State, that authority shall acknowledge receipt of the application and inform the applicant of any missing document.

(3) A competent authority in the State shall, through the applicant's IMI file, issue any supporting certificate or information required, in relation to an application for a European Professional Card, including verification of the applicant's legal establishment in the State and confirmation that all the necessary documents which have been issued in the State are valid and authentic.

(4) In the event of duly justified doubts as to the matters referred to in paragraph (3), the competent authority in the State shall consult any relevant body and may request from the applicant certified copies of documents.

(5) In case of subsequent applications for a European Professional Card by the same applicant, a competent authority in the State may not request the re-submission of documents which are already contained in the applicant's IMI file and which are still valid.

European Professional Card for temporary and occasional services in other Member States without prior check

76. (1) Where—

(a) a person intends to provide services on a temporary and occasional basis in a regulated profession in another Member State under Title II of the Directive, and

(b) either—

(i) the services are not in a regulated profession which has been listed by the Member State under Article 57(1)(c) of the Directive as having public health or safety implications, or

(ii) the person benefits from automatic recognition under Chapter II or III of Title III of the Directive,

an application for a European Professional Card for the provision of such services shall be made to the competent authority in the State and the provisions of this Regulation shall apply.

(2) The competent authority in the State shall verify the application and the supporting documents in the IMI file and issue the European Professional Card within three weeks.

(3) The time period referred to in paragraph (2) shall start upon receipt of the missing documents referred to in Regulation 75(2) or, if no further documents were requested, upon the expiry of the one week period referred to in that paragraph.

(4) The competent authority in the State shall transmit the European Professional Card immediately to the competent authority of each host Member State concerned and shall inform the applicant accordingly.

(5) If a holder of a European Professional Card issued under this Regulation wishes—

(a) to provide services in Member States other than those initially mentioned in the application for the card, or

(b) to continue providing services in another Member State, or other Member States, beyond a period of 18 months,

that holder shall apply to the competent authority in the State accordingly and shall also provide any information on material changes in the situation substantiated in the IMI file that may be required by the competent authority in the State in accordance with the Implementing Regulation.

(6) A competent authority in the State which receives an application under paragraph (5) shall transmit the updated European Professional Card to the host Member States concerned.

European Professional Card for temporary and occasional services in State without prior check

77. (1) Where—

(a) a person intends to provide services on a temporary and occasional basis in a regulated profession in the State under Part 4, and

(b) either—

(i) the services are not in a regulated profession listed in Schedule 3 as having public health or safety implications, or

(ii) the person benefits from automatic recognition under Parts 6 to 14,

an application for a European Professional Card for the provision of such services shall be made to the competent authority in the home Member State in accordance with Articles 4b and 4c(1) of the Directive, and when that competent authority issues the card and transmits it to the competent authority in the State, as host Member State, the provisions of this Regulation shall apply.

(2) The European Professional Card shall, where applicable, constitute the declaration under Regulation 13 and the competent authority in the State may not require any further declaration under that Regulation for the following 18 months.

(3) The European Professional Card shall be valid in the entire territory of the State for as long as its holder maintains the right to practise on the basis of the documents and information contained in the IMI file.

European Professional Card for establishment, or temporary and occasional services with prior check, in other Member States

78. (1) Where a person intends to—

- (a) establish himself or herself in another Member State under Chapters I to III of Title III of the Directive, or
- (b) provide services on a temporary and occasional basis in a regulated profession in another Member State under Title II of the Directive and—
 - (i) the profession has been listed by the Member State under Article 57(1)(c) of the Directive as having public health or safety implications, and
 - (ii) the person does not benefit from automatic recognition of professional qualifications under Chapter II or III of Title III of the Directive,

an application for a European Professional Card shall be made to the competent authority in the State, which shall complete all preparatory steps with regard to the individual file of the applicant created within the IMI file in accordance with this Regulation.

(2) The competent authority in the State shall, within one month, verify the authenticity and validity of the supporting documents in the IMI file.

(3) The time period referred to in paragraph (2) shall start upon receipt of the missing documents referred to in Regulation 75(2) or, if no further documents were requested, upon the expiry of the one week period referred to in that paragraph.

(4) Following verification in accordance with paragraph (2), the competent authority in the State shall transmit the application immediately to the competent authority of the host Member State and shall, at the same time, inform the applicant of the status of the application.

(5) Where additional information or a certified copy of a document is requested by a competent authority in another Member State from a competent authority in the State pursuant to Article 4d(2) or (3) of the Directive, the competent authority in the State shall provide such information or document no later than two weeks after the submission of the request.

European Professional Card for establishment, or temporary and occasional services with prior check, in State

79. (1) Where a person intends to—

- (a) establish himself or herself in a regulated profession in the State under Parts 5 to 14, or
- (b) provide services on a temporary and occasional basis in a regulated profession in the State under Part 4 and—
 - (i) the profession is listed in Schedule 3 as having public health or safety implications, and
 - (ii) the person does not benefit from automatic recognition of professional qualifications under Parts 6 to 14,

an application for a European Professional Card shall be made to the competent authority in the home Member State, which shall complete all preparatory steps with regard to the individual file of the applicant created within the IMI file in accordance with Articles 4b and 4d(1) of the Directive and transmit the application to the competent authority in the State, and the provisions of this Regulation shall then apply.

(2) Subject to paragraph (8), in the case of a person intending to establish himself or herself in a regulated profession in the State under Parts 6 to 14, the competent authority in the State shall decide, within one month of receipt of the application transmitted by the competent authority in the home Member State, whether to issue a European Professional Card.

(3) Subject to paragraph (8), in the case of a person intending to—

- (a) establish himself or herself in a regulated profession in the State under Part 5, or,
- (b) provide the services referred to in paragraph (1)(b),

the competent authority in the State shall decide, within two months of receipt of the application transmitted by the competent authority in the home Member State, whether to issue a European Professional Card or to subject the person to compensation measures.

(4) In the event of duly justified doubts, the competent authority in the State may request additional information from, or the inclusion of a certified copy of a document by, the competent authority in the home Member State.

(5) Subject to paragraph (8), the time periods referred to in paragraphs (2) and (3) shall apply notwithstanding any request under paragraph (4).

(6) In the event that the competent authority in the State does not receive the necessary information which it may require in accordance with the Directive, the Implementing Regulation and these Regulations for taking a decision on the

issuance of a European Professional Card from either the home Member State or the applicant, it may refuse to issue the card and such refusal shall be duly justified.

(7) Where the competent authority in the State fails to take a decision within the applicable time limit set out in paragraph (2) or (3) or fails to organise an aptitude test in accordance with Regulation 15(5), the European Professional Card shall be deemed to be issued and shall be sent automatically, through IMI, to the applicant.

(8) Subject to paragraph (9), the competent authority in the State may extend by two weeks the deadlines set out in paragraphs (2) and (3) for the automatic issuance of the European Professional Card.

(9) Where the competent authority in the State extends a deadline under paragraph (8), it shall explain the reason for the extension and inform the applicant accordingly.

(10) An extension under paragraph (8) may be repeated once and only where it is strictly necessary, in particular for reasons relating to public health or the safety of the service recipients.

(11) Actions taken by the competent authority in the home Member State in accordance with Article 4d(1) of the Directive shall replace any application for recognition of professional qualifications in the State under these Regulations.

Processing and access to data regarding European Professional Card

80. (1) Without prejudice to the presumption of innocence, a competent authority in the State shall update, in a timely manner, the corresponding IMI file with information regarding disciplinary actions or criminal sanctions which relate to a prohibition or restriction and which have consequences for the pursuit of activities by the holder of a European Professional Card under these Regulations and the Directive.

(2) In updating the IMI file pursuant to paragraph (1), a competent authority in the State shall respect personal data protection rules provided for in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995¹⁶ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002¹⁷.

(3) Updates under paragraph (1) shall include the deletion of information which is no longer required.

(4) The holder of a European Professional Card, as well as the competent authorities in other Member States that have access to the corresponding IMI file, shall be informed immediately of any updates pursuant to paragraph (1), without prejudice to the alert obligations provided for in Regulation 87.

(5) The content of updates referred to in paragraph (1) shall be limited to the following:

- (a) the identity of the professional;
- (b) the profession concerned;
- (c) information about the national authority or court which has adopted the decision on restriction or prohibition;
- (d) the scope of the restriction or the prohibition; and
- (e) the period for which the restriction or the prohibition applies.

(6) A competent authority in the State shall inform the holder of a European Professional Card of the content of the IMI file upon that holder's request.

(7) The holder of a European Professional Card may, at any time, and at no cost to that holder, make a request to the competent authority in the State for the rectification of inaccurate or incomplete data, or the deletion or blocking of his or her IMI file.

(8) The holder shall be informed of his or her right under paragraph (7) at the time the European Professional Card is issued by a competent authority in the State, and reminded of it every two years thereafter, via IMI.

(9) In the event of a request for deletion of an IMI file linked to a European Professional Card issued under Regulation 79, the competent authority in the State shall issue the person concerned with evidence attesting to the recognition of his or her professional qualifications.

(10) In relation to the processing of personal data in the European Professional Card and all IMI files, the competent authority in the State shall be regarded as a controller within the meaning of point (d) of Article 2 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995¹⁶.

(11) Without prejudice to paragraph (6), employers, customers, patients, public authorities and other interested parties may verify the authenticity and validity of a European Professional Card presented to them by the card holder in accordance with Article 22 of the Implementing Regulation.

Part 17

REVOCATION OF DOCUMENTS, REVERSAL OF DECISIONS AND APPEALS

Revocation of document by competent authority

81. (1) Subject to paragraphs (2) and (3), a competent authority may revoke a document issued by it pursuant to these Regulations or the Directive, whether as competent authority of the host Member State or the home Member State, where it is satisfied that information in reliance upon which the document concerned has been issued is not correct or is not correct in a material particular and the experience or qualifications to which the certificate attests have not been attained.

(2) Where a competent authority proposes to revoke a document pursuant to paragraph (1), it shall by notice in writing to the person to whom the document relates—

- (a) inform him or her of its intention to revoke the document and the reasons for this,
- (b) identify the incorrect information pertaining to the document, and
- (c) invite the person to make representations to the competent authority within a period of at least two weeks from the date of the notice.

(3) If, at the end of the period provided for in paragraph (2)(c), the competent authority, having considered any representations made to it by or on behalf of the person concerned, remains of the view that the document should be revoked then the competent authority may, by notice in writing, revoke the document and state the reasons for the revocation.

Reversal of recognition decision

82. (1) Subject to paragraphs (2) and (3), a competent authority in the State may reverse a decision to recognise evidence of professional qualifications under these Regulations where it is satisfied that information in reliance upon which the competent authority made the decision is not correct or is not correct in a material particular.

(2) Where a competent authority proposes to reverse a decision pursuant to paragraph (1), it shall by notice in writing to the person concerned—

- (a) inform him or her of its intention to reverse the decision and the reasons for this,
- (b) identify the incorrect information pertaining to the decision, and
- (c) invite the person to make representations to the competent authority within a period of at least 2 weeks from the date of the notice.

(3) If, at the end of the period provided for in paragraph (2)(c), the competent authority, having considered any representations made to it by or on behalf of the person concerned, remains of the view that the decision should be reversed then the competent authority may, by notice in writing, reverse the decision and state the reasons for the reversal.

Appeals

83. (1) Subject to paragraph (5), where a competent authority in the State—

- (a) decides to grant, or not to grant, an applicant partial access to a profession under Regulation 10,
- (b) decides to revoke temporary registration or pro forma membership under Regulation 12(6),

- (c) decides to require an applicant to undergo compensation measures under Regulation 22,
- (d) decides not to recognise the professional qualifications of an applicant under Parts 5 to 14,
- (e) fails to acknowledge the receipt of an application for recognition of professional qualifications within the time period provided for in Regulation 67(2),
- (f) fails to make a decision on an application for recognition of professional qualifications within the time period provided for in Regulation 67(3), or any extended period under Regulation 67(4),
- (g) decides not to issue a European Professional Card under Regulation 76,
- (h) fails to make a decision on an application for a European Professional Card under Regulation 76 within the time period provided for in paragraph (2) of that Regulation,
- (i) fails to verify the authenticity and validity of the supporting documents in the IMI file in of an application for a European Professional Card within the period provided for in Regulation 78(2),
- (j) fails to transmit an application for a European Professional Card, in accordance with Regulation 78(4),
- (k) decides not to issue a European Professional Card under Regulation 79,
- (l) fails to make a decision on an application for European Professional Card under Regulation 79 within the applicable time period provided for in paragraph (2), (3) or (8) of that Regulation,
- (m) decides to revoke a document under Regulation 81,
- (n) decides to reverse a decision under Regulation 82,
- (o) decides to carry out language controls pursuant to Regulation 85, or
- (p) decides to send an alert under Regulation 87,

the person concerned may appeal that decision or failure to make such decision to the High Court not later than 42 days from the date of the notice of that decision or the expiry of the period within which the decision or acknowledgment should have been made.

(2) A competent authority shall notify a person the subject of a decision referred to in paragraph (1) in writing of the decision and the reasons therefor and shall inform the person of his or her right to appeal under that paragraph.

(3) Upon the hearing of an appeal under this Regulation the High Court may do one or more of the following:

- (a) affirm or set aside a decision of the competent authority,
- (b) make a decision or acknowledgement which the competent authority failed to make within the prescribed time period,
- (c) direct the competent authority to make a decision within a certain time period,
- (d) remit the matter, with or without directions, to the competent authority for reconsideration and the making of a new decision,
- (e) amend or rectify a decision of the competent authority,
- (f) substitute a decision of the competent authority with a new decision,
- (g) grant an appropriate remedy in respect of any damage caused by a false alert, or
- (h) take such other action as may be appropriate for the purpose of doing justice.

(4) The decision of the High Court on an appeal under this Regulation shall be final and conclusive.

(5) This Regulation shall not apply to a health or social care profession designated under section 4 of the Health and Social Care Professionals Act 2005 (No. 27 of 2005) in respect of which a register has been established under section 36(1) of that Act and the registration board has been designated as competent authority pursuant to section 27A (inserted by section 5 of the Health and Social Care Professionals (Amendment) Act 2012) of that Act.

Part 18

PURSUIT OF PROFESSION

Use of professional titles

84. (1) Where the use of a professional title relating to one of the activities of a regulated profession in the State is regulated, a person pursuing that profession having had his or her professional qualifications recognised under Parts 5 to 14 shall use the professional title required to be used in the State, and make use of any associated initials.

(2) Where persons practising a regulated profession in the State are required to be members of a particular association or organisation, a person referred to in paragraph (1) shall not be authorised to use the professional title issued by that organisation or association, or its abbreviated form, unless the person furnishes proof that he or she is a member of that association or organisation.

(3) If an association or organisation referred to in paragraph (2) makes membership contingent upon certain qualifications, it may do so, only under the conditions laid down in these Regulations and the Directive, in respect of eligible persons who possess professional qualifications.

Knowledge of languages

85. (1) A person benefitting from the recognition of professional qualifications under these Regulations shall have a knowledge of languages necessary for practising the relevant profession in the State.

(2) Any controls carried out by, or under the supervision of, a competent authority for controlling compliance with the obligation under paragraph (1) shall be limited to the knowledge of either the English language or the Irish language.

(3) Controls carried out in accordance with paragraph (2) may only be imposed—

- (a) if the profession to be practised has patient safety implications, or
- (b) in respect of other professions, in cases where there is a serious and concrete doubt about the sufficiency of the person's language knowledge in respect of the professional activities that he or she intends to pursue,

and only after the issuance of a European Professional Card in accordance with Part 16 or after the recognition of a professional qualification, as the case may be.

(4) Any controls carried out under this Regulation shall be proportionate to the activity to be pursued.

(5) The holder of an EPC may, for the purpose of this Regulation, submit any required document proving knowledge of a language by IMI.

Use of academic titles

86. (1) Without prejudice to Regulations 14, 15 and 84, a person benefitting from the recognition of professional qualifications under these Regulations is entitled to use academic titles conferred on him or her in the home Member State, or in an abbreviated form thereof, in the language of the home Member State.

(2) Where a person uses an academic title pursuant to paragraph (1), that title shall be followed by the name and address of the establishment or examining board which awarded it.

(3) Where a person uses an academic title pursuant to paragraph (1) which is liable to be confused in the State with a title which, in the State, requires supplementary training not acquired by the person, the academic title of the home Member State shall be used in an appropriate form, to be laid down by the competent authority for the relevant regulated profession.

Alert mechanism

87. (1) The competent authority in the State shall co-ordinate and handle incoming and outgoing alerts in respect of its profession under this Regulation, Article 56a(1) of the Directive and Chapter II of the Implementing Regulation and shall, for those purposes, comply with the procedures laid down in that Chapter of the Implementing Regulation.

(2) The national co-ordinator shall handle and co-ordinate incoming alerts in the State under Article 56a(3) of the Directive and Chapter II of the Implementing Regulation and shall, for those purposes, comply with the procedures laid down that Chapter of the Implementing Regulation.

(3) In the case of the following professional activities, the competent authority in the State shall inform the competent authorities of all other Member States about a professional whose pursuit in the State of the activities, in their entirety or in parts thereof, has been restricted or prohibited, even temporarily, by authorities or courts in the State:

- (a) doctor of medicine and of general practice possessing evidence of a formal qualification referred to in points 5.1.1 and 5.1.4 of Annex V to the Directive;
- (b) specialist doctor of medicine possessing a title referred to in point 5.1.3 of Annex V to the Directive;
- (c) nurse responsible for general care possessing evidence of a formal qualification referred to in point 5.2.2 of Annex V to the Directive;
- (d) dental practitioner possessing evidence of a formal qualification referred to in point 5.3.2 of Annex V to the Directive;
- (e) specialist dentists possessing evidence of a formal qualification referred to in point 5.3.3 of Annex V to the Directive;
- (f) veterinary surgeon possessing evidence of a formal qualification referred to in point 5.4.2 of Annex V to the Directive;
- (g) midwife possessing evidence of a formal qualification referred to in point 5.5.2 of Annex V to the Directive;
- (h) pharmacist possessing evidence of a formal qualification listed in point 5.6.2 of Annex V to the Directive;
- (i) holders of certificates mentioned in point 2 of Annex VII to the Directive attesting that the holder completed a training which satisfies the minimum requirements listed in Articles 24, 25, 31, 34, 35, 38, 40, or 44 of the Directive respectively, but which started earlier than the

reference dates of the qualifications listed in points 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 of Annex V to the Directive;

- (j) holders of certificates of acquired rights as referred to in Articles 23, 27, 29, 33, 33a, 37, 43 and 43a of the Directive;
- (k) other professionals exercising activities that have patient safety implications, where the professional is pursuing a regulated profession in the State; and
- (l) professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a regulated profession in the State.

(4) The competent authority in the State shall send the information referred to in paragraph (3) by way of alert via IMI at the latest within three days from the date of adoption of the decision restricting or prohibiting pursuit of the professional activity, in its entirety or in part, by the professional concerned.

(5) Information sent pursuant to paragraph (3) shall be limited to the following:

- (a) the identity of the professional;
- (b) the profession concerned;
- (c) information about the authority or court in the State adopting the decision on restriction or prohibition;
- (d) the scope of the restriction or the prohibition; and
- (e) the period during which the restriction or prohibition applies.

(6) Where a person is found guilty by a court in the State of using a false instrument as evidence of professional qualifications under these Regulations or the Directive, the competent authority in State shall, at the latest within three days from the date of adoption of the court decision, inform the competent authorities of all other Member States, by way of alert via IMI, about the identity of the person found guilty.

(7) The processing of personal data for the purpose of the exchange of information referred to in paragraphs (1) to (6) shall be carried out in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995¹⁶ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002¹⁷.

(8) A competent authority in the State which has provided information pursuant to paragraph (3) shall, without delay, inform the competent authorities of all other Member States of—

- (a) any subsequent change to the date of expiry of the restriction or prohibition in respect of which it provided information, and
- (b) the expiry of the said restriction or prohibition.

(9) A professional in respect of whom an alert is sent by a competent authority in the State pursuant to this Regulation shall be informed in writing of the decision to send such alert at the same time as the alert is sent.

(10) Where an appeal is brought against a decision on an alert, the competent authority in the State shall qualify the alert to indicate that it is subject to proceedings by the professional.

Part 20

ELECTRONIC PROCESSING AND FEES

Procedures by electronic means

88. (1) Subject to paragraph (3), all requirements, procedures and formalities relating to matters covered by these Regulations and the Directive shall be capable of being completed, remotely and by electronic means, through the relevant point of single contact designated under Regulation 31(1) of the European Union (Provision of Services) Regulations 2010 (S.I. No. 533 of 2010) or the competent authority in the State.

(2) Paragraph (1) shall not prevent a competent authority in the State from requesting certified copies of documentation submitted remotely and by electronic means at a later stage in the event of justified doubts and where strictly necessary.

(3) Paragraph (1) shall not apply to the carrying out of an adaptation period or aptitude test.

(4) Where it is justified for a competent authority in the State to ask for advanced electronic signatures, as defined in section 2 of the Electronic Commerce Act 2000 (No. 27 of 2000), for the completion of procedures referred to in paragraph (1) of this Regulation, the competent authority shall accept electronic signatures in compliance with Commission Decision 2009/767/EC of 16 October 2009²¹ and provide for technical means to process documents with advanced electronic signature in formats defined by Commission Decision 2011/130/EU of 25 February 2011²².

(5) All procedures under these Regulations and the Directive shall be carried out in accordance with Article 8 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006²⁰.

(6) The procedural time limits set out in Regulations 15 and 67 shall commence at the point when an application or any missing document has been

²¹OJ No. L 274, 20.10.2009, p. 36.

²²OJ No. L 53, 26.2.2011, p. 66.

submitted by a citizen to a point of single contact or directly to the competent authority.

(7) Any request for certified copies referred to in paragraph (2) shall not be considered as a request for missing documents.

Charging of fees by competent authority

89. (1) A competent authority in the State may charge a fee for carrying out or causing to be carried out any function or service under these Regulations or the Directive.

(2) A fee charged pursuant to paragraph (1) shall—

- (a) be reasonable, proportionate and commensurate with the costs incurred by the competent authority in respect of the particular function or service,
- (b) not exceed the real cost of the function or service provided,
- (c) not be set at a level which would make it impossible in practice to exercise the rights provided for under these Regulations and the Directive, and
- (d) in the case of a flat-rate fee, be justified by reference to the average cost of the function or service provided.

Part 21

REVOCATIONS, AMENDMENTS AND TRANSITIONAL ARRANGEMENTS

Revocations

90. (1) Subject to Regulation 96, the following are revoked:

- (a) the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008 (S.I. No. 139 of 2008);
- (b) the Recognition of the Professional Qualifications of Nurses and Midwives (Directive 2005/36/EC) Regulations 2008 (S.I. 164 of 2008);
- (c) the Recognition of Professional Qualifications (Health and Social Care Professions) (Directive 2005/36/EC) Regulations 2008 (S.I. No. 166 of 2008), except Regulation 5 of those Regulations;
- (d) the Recognition of Professional Qualifications of Dentists (Directive 2005/36/EC) Regulations 2008 (S.I. No. 263 of 2008);
- (e) the European Communities (Directive 2006/100/EC) (Recognition of Bulgarian and Romanian Medical Qualifications) Regulations 2008 (S.I. No. 393 of 2008);
- (f) the European Communities (Recognition of Professional Qualifications relating to the Profession of Pharmacist) (No. 2) Regulations

2008 (S.I. No. 489 of 2008), except Regulation 9 insofar as it inserts section 24B into the Pharmacy Act 2007 (No. 20 of 2007);

- (g) the Recognition of Professional Qualifications (Health and Social Care Professions) (Directive 2005/36/EC) (Amendment) Regulations 2011 (S.I. No. 109 of 2011);
- (h) the European Union (Recognition of Professional Qualifications relating to the Profession of Pharmacist) Regulations 2012 (S.I. No. 235 of 2012);
- (i) the European Union (Recognition of Professional Qualifications relating to the Profession of Pharmacist) Regulations 2013 (S.I. No. 377 of 2013);
- (j) the European Union (Recognition of Professional Qualifications relating to the Professions of Dentist, Medical Practitioner, Nurse and Midwife) Regulations 2014 (S.I. No. 7 of 2014);
- (k) the European Union (Recognition of Professional Qualifications) (Directive 2005/36/EC) (Amendment) Regulations 2014 (S.I. No. 368 of 2014);
- (l) the Recognition of Professional Qualifications (Health and Social Care Professions) (Directive 2005/36/EC) (Amendment) Regulations 2014 (S.I. No. 315 of 2014).

(2) References in other enactments to Regulations revoked under paragraph (1) shall, where the context so admits, be construed as references to these Regulations.

Amendment of Pharmacy Act 2007

91. The Pharmacy Act 2007 is amended—

- (a) in section 2(1), by inserting the following definitions:

“‘Professional Qualifications Directive’, has the same meaning as that assigned to “Directive” in the Professional Qualifications Regulations;

‘Professional Qualifications Regulations’ means the European Union (Recognition of Professional Qualifications) Regulations 2017 (No. 8 of 2017);”,

- (b) in section 7(2)(a)(vi), by inserting “Commission Implementing Regulation (EU) 2015/983 of 24 June 2015⁴ and the Professional Qualifications Regulations,” after “Professional Qualifications Directive,”;
- (c) in section 14—
 - (i) in subsection (1), by substituting for paragraph (h) the following:

“(h) being a national of the State or another Member State, satisfies the Council that he or she has the linguistic competence necessary to be a registered pharmacist in the State.”, and

(ii) by deleting subsection (3),

(d) in section 16 (as amended by Regulations 3 and 4 of the European Union (Recognition of Professional Qualifications Relating to the Profession of Pharmacy) Regulations 2013 (S.I. No. 377 of 2013))—

(i) by substituting for subsection (1) the following:

“(1) A person holds a qualification appropriate for practice if he or she has been awarded a prescribed qualification in the State in accordance with prescribed training and education.”,

(ii) in subsection (2), by substituting for paragraph (a) the following:

“(a) he or she is a national of a relevant state and has his or her professional qualifications recognised by the Council under the Professional Qualifications Regulations, or”,

(iii) by substituting for subsections (3) to (10) the following subsections:

“(3) The Council may—

(a) so as to inform itself for the purposes of subsection (2)(b) about the standard of training, education, examinations and qualifications in another state, require a person to whom that provision appears to apply to sit an examination,

(b) in any case in which it is in any doubt about a matter referred to in that provision, require a person to whom that provision appears to apply to undergo such training as it may specify.

(4) Schedule 2 makes further provision as to the recognition of professional qualifications in pharmacy.

(5) In this section—

‘national of a relevant state’ includes a person who is not a national of a relevant state, but who is an eligible person, as defined in Regulation 3 of the Professional Qualifications Regulations;

‘relevant state’ means—

- (a) a Member State,
- (b) a state that is a contracting state to the EEA Agreement within the meaning given by the European Communities (Amendment) Act 1993 (other than a Member State or the State),
- (c) Switzerland;

‘third country’ means a country that is not a relevant state.”

- (e) by repealing sections 21A and 24A (inserted by Regulations 8 and 9 of the European Communities (Recognition of Professional Qualifications relating to the Profession of Pharmacist) (No. 2) Regulations 2008 (S.I. No. 489 of 2008)),
- (f) in section 24B (inserted by Regulation 9 of the European Communities (Recognition of Professional Qualifications relating to the Profession of Pharmacist) (No. 2) Regulations 2008), by substituting for subsections (2) to (5) the following subsections:
 - “(2) The Council shall enter, in Part B of the Register of Pharmacists, the names of persons providing the services of a registered pharmacist in the State on a temporary and occasional basis pursuant to Part 4 of the Professional Qualifications Regulations.
 - (3) Notwithstanding the provisions of Part 6 of this Act, the Council may cancel a registration under Part B of the Register of Pharmacists in any of the circumstances referred to Regulation 12(6) of the Professional Qualifications Regulations within two months of the date on which the information concerned becomes known to the Council.”,
- (g) in paragraph 20(1)(f) of Schedule 1, by inserting “or the Professional Qualifications Regulations” after “this Act”, and
- (h) in Schedule 2, by deleting paragraphs 1, 2, 3, 4, 5 and 10.

Amendment of Health and Social Care Professionals Act 2005

92. The Health and Social Care Professionals Act 2005 is amended—

- (a) in section 3(1) (as amended by section 5 of the Health (Miscellaneous Provisions) Act 2014 (No. 33 of 2014))—
 - (i) by substituting for the definition of “Directive 2005/36/EC” the following:
 - “‘Directive 2005/36/EC’ has the meaning assigned to “Directive” in Regulation 3(1) of the Professional Qualifications Regulations;”, and
 - (ii) by inserting the following definition:

““Professional Qualifications Regulations’ means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);”

(b) in section 42(2) (as amended by section 8 of the Health and Social Care Professionals (Amendment) Act 2012 (No. 46 of 2012))—

(i) in paragraph (a)—

(I) by substituting “section 27A(2)(b)” for “section 27A(2)(a) or (b)”, and

(II) by substituting “cancellation of the decision,” for “cancellation of the decision, or”,

(ii) in paragraph (b), by substituting “cancellation of the decision, or” for “cancellation of the decision.”, and

(iii) by inserting after paragraph (b) the following paragraph:

“(c) if the decision is a decision referred to in section 42B(2A), information concerning the right to apply to the Council for a direction under that paragraph.”

(c) in section 42A(1)(a) (inserted by section 9 of the Health and Social Care Professionals (Amendment) Act 2012), by substituting “section 27A(2)(b)” for “section 27A(2)(a) or (b)”,

(d) in section 42B (inserted by section 9 of the Health and Social Care Professionals (Amendment) Act 2012)—

(i) in subsection (1)—

(I) by substituting “section 27A(2)(b)” for “section 27A(2)(a) or (b)”, and

(II) by deleting paragraph (a),

(ii) in subsection (2)—

(I) in paragraph (a), by inserting “for the assessment of his or her professional qualifications under section 27A(2)(b)” after “made by the person”, and

(II) in paragraph (b), by inserting “in relation to assessment of his or her professional qualifications under section 27A(2)(b)” after “notify the person of a decision”,

(iii) by inserting after subsection (2) the following subsection:

“(2A) A person may apply to the Council for a direction by the Council to a registration board where the registration board—

- (a) decides to grant, or not to grant, an applicant partial access to a profession under Regulation 10 of the Professional Qualifications Regulations,
- (b) decides to revoke temporary registration or pro forma membership under Regulation 12(6) of the Professional Qualifications Regulations,
- (c) decides to require an applicant to undergo compensation measures under Regulation 22 of the Professional Qualifications Regulations,
- (d) decides not to recognise the professional qualifications of an applicant under Parts 5 to 14 of the Professional Qualifications Regulations,
- (e) fails to acknowledge the receipt of an application for recognition of professional qualifications within the period provided for in Regulation 67(2) of the Professional Qualifications Regulations,
- (f) fails to make a decision on an application for recognition of professional qualifications within the period provided for in Regulation 67(3) of the Professional Qualifications Regulations, or any extended period under Regulation 67(4) of those Regulations,
- (g) decides not to issue a European Professional Card under Regulation 76 of the Professional Qualifications Regulations,
- (h) fails to make a decision on an application for a European Professional Card under Regulation 76 of the Professional Qualifications Regulations within the period provided for in paragraph (2) of that Regulation,
- (i) fails to verify the authenticity of the validity of the supporting documents in the IMI file for a European Professional Card within the period provided for in Regulation 78(2) of the Professional Qualifications Regulations,
- (j) fails to transmit an application for a European Professional Card in accordance with Regulation 78(4) of the Professional Qualifications Regulations,

- (k) decides not to issue a European Professional Card under Regulation 79 of the Professional Qualifications Regulations,
 - (l) fails to make a decision on an application for European Professional Card under Regulation 79 of the Professional Qualifications Regulations within the applicable time period provided for in paragraph (2), (3) or (8) of that Regulation,
 - (m) decides to revoke a document under Regulation 81 of the Professional Qualifications Regulations,
 - (n) decides to reverse a decision under Regulation 82 of the Professional Qualifications Regulations,
 - (o) decides to carry out language controls pursuant to Regulation 85 of the Professional Qualifications Regulations, or
 - (p) decides to send an alert under Regulation 87 of the Professional Qualifications Regulations.”,
- (iv) by substituting for subsection (3)(a) the following:

“(a) if the application is an application under subsection (1) or (2A)—

- (i) within 30 days after the person receives notification of the decision from the registration board,
- (ii) within 30 days after the expiry of the period concerned, or
- (iii) in the case of an application under subsection (2A)(j), within 30 days after verification of the authenticity and validity of the supporting documents in accordance with Regulation 78(2),

as appropriate, or”

(v) in subsection (4)(a)—

- (I) by inserting “or (2A)” after “subsection (1)”, and
- (II) in subparagraph (i), by deleting “or”,
- (III) in clause (III) of subparagraph (ii), by inserting “or” after “considers appropriate,”, and
- (IV) by inserting after subparagraph (ii) the following subparagraph:

“(iii) in any other case, give such directions to the registration board as the Council considers appropriate,”

(vi) by deleting subsection (6),

(e) in section 44 (as amended by section 10 of the Health and Social Care Professionals (Amendment) Act 2012), by inserting after subsection (4) the following subsection:

“(5) A decision of the Court on an appeal against a direction made by the Council on an application under section 42B(2A) shall be final and conclusive.”, and

(f) in section 79(4)(b) (as amended by section 12 of the Health and Social Care Professionals (Amendment) Act 2012), by substituting “pursuant to Part 4 of the Professional Qualifications Regulations” for “and his or her professional qualifications have been assessed within the meaning of Article 7.4 of Directive 2005/36/EC”.

Amendment of Nurses and Midwives Act 2011

93. The Nurses and Midwives Act 2011 (No. 41 of 2011) is amended—

(a) in section 2 (as amended by Regulation 4 of the European Union (Recognition of Professional Qualifications relating to the Professions of Dentist, Medical Practitioner, Nurse and Midwife) Regulations 2014)—

(i) by substituting for the definition of “Directive 2005/36/EC” the following:

“‘Directive 2005/36/EC’ has the meaning assigned to ‘Directive’ in Regulation 3(1) of the Regulations of 2017;”,

(ii) by deleting the definition of “Regulations of 2008”, and

(iii) by inserting the following definition:

“‘Regulations of 2017’ means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);”,

(b) in section 9(2)(e)(i), by substituting “under the Regulations of 2017” for “awarded in or recognised by Member States or other relevant states within the meaning of the Regulations of 2008”, and

(c) in section 41(2), by substituting “Regulations of 2017” for “Regulations of 2008”.

Amendment of Dentists Act 1985

94. The Dentists Act 1985 (No. 9 of 1985) is amended—

(a) in section 2, by inserting the following definition:

“‘Regulations of 2017 ’ means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);”,

(b) in section 27(2), by substituting for paragraph (c) the following:

“(c) has his or her professional qualifications as a dental practitioner recognised under the Regulations of 2017, or”, and

(c) in section 30(1), by substituting for paragraph (c) the following:

“(c) every person who has his or her professional qualification as a specialised dental practitioner recognised under the Regulations of 2017.”.

Amendment of Medical Practitioners Act 2007

95. (1) The Medical Practitioners Act 2007 (No. 25 of 2007) is amended—

(a) in section 2 (as amended by Regulation 3 of the European Union (Recognition of Professional Qualifications relating to the Professions of Dentist, Medical Practitioner, Nurse and Midwife) Regulations 2014)—

(i) by substituting for the definition of “Directive 2005/36/EC” the following:

“‘Directive 2005/36/EC’ has the meaning assigned to “Directive” in Regulation 3(1) of the Regulations of 2017;”, and

(ii) by inserting the following definition:

“‘Regulations of 2017 ’ means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);”,

(b) in section 7(2)(g)(i), by substituting “under the Regulations of 2017 ” for “awarded in or recognised by Member States”,

(c) in section 37(b), by deleting “subject to section 50,”,

(d) in section 38, by substituting for paragraphs (e) to (g) the following paragraphs:

“(e) the practitioner only practises medicine in the course of rendering first aid to a person, or

(f) the practitioner only practices medicine in any combination of any of the circumstances specified in paragraphs (a) to (e).”

(e) in section 45 (as amended by section 7 of the Medical Practitioners (Amendment) Act 2011 (No. 12 of 2011), by deleting subsections (4), (5) and (6),

(f) in section 46(b), by substituting for subparagraph (iii) the following:

“(iii) has his or her qualifications as a medical practitioner recognised under the Regulations of 2017, or”,

(g) in section 47(1)—

(i) by substituting for paragraph (c) the following:

“(c) every medical practitioner who has his or her qualifications as a specialised doctor recognised under the Regulations of 2017; or”, and

(ii) by deleting paragraphs (d) and (e),

(h) in section 48(2)—

(i) by deleting “is a national of a Member State”, and

(ii) by substituting for paragraph (a) the following:

“(a) has his or her qualifications as a medical practitioner recognised under the Regulations of 2017 ”,

(i) by substituting for section 50 the following:

“50.— (1) Where a medical practitioner complies with the requirements of Part 4 and Regulation 85 of the Regulations of 2017, the Council shall—

(a) temporarily register the practitioner in the Visiting EEA Practitioners Division, and

(b) enter in the register the particulars contained in the practitioner’s declaration made pursuant to Regulation 13 of the Regulations of 2017,

and may revoke such temporary registration in accordance with Regulation 12(6) of the Regulations of 2017.

(2) A visiting EEA practitioner may advertise his or her services as a medical practitioner.

(3) A visiting EEA practitioner shall not practise medicine in the State otherwise than in accordance with a declaration made by the practitioner under Regulation 13 of the Regulations of 2017 or in a case of urgency.”,

(j) in section 78(4)—

- (i) in paragraph (a), by substituting “medical practitioner, and” for “medical practitioner,”
- (ii) in paragraph (b), by substituting “suspended.” for “suspended, and”, and
- (iii) by deleting paragraph (c),

(k) by substituting for section 87 the following:

“87.— (1) The Council shall ensure that medical education and training complies with the requirements of Directive 2005/36/EC and the Regulations of 2017.

(2) The Council shall give notice to the Minister forthwith of any administrative measure implemented by it for the purposes of this section.”,

(l) in section 88(2)(a), by substituting “section 87” for “section 87(2)”, and

(m) in section 89(3), by substituting “section 87” for “section 87(3)”.

(2) References in rules 4, 5 and 6 of the Medical Council Registration Rules 2011 (S.I. No. 417 of 2011) to section 47(1)(d) and (e) of the Medical Practitioners Act 2007 shall be construed as references to section 47(1)(c) of that Act.

Transitional measures

96. (1) Where, immediately before the coming into operation of these Regulations, an applicant has made an application to a competent authority in the State under Regulations referred to in Regulation 90, the provisions of those Regulations shall continue to apply as if not revoked to—

- (a) that application, and
- (b) any appeal made in relation to that application.

(2) The provisions of the Regulations referred to in Regulation 90 shall continue to apply to any action taken in relation to—

- (a) an applicant or professional whose home Member State is not a member state of the European Union, and
- (b) matters affecting a Member State which is not a member state of the European Union, insofar as such action relates to that Member State.

Regulation 5

Schedule 1

REGULATED PROFESSIONS AND COMPETENT AUTHORITIES

A. Professions and professional activities regulated by law

Column 1	Column 2
Profession or professional activity	Competent authority
Aircraft Maintenance Engineer	Irish Aviation Authority
Architect	Royal Institute of the Architects of Ireland
Archaeologist	Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
Auditing company accounts	Association of Chartered Certified Accountants Institute of Certified Public Accountants in Ireland Institute of Chartered Accountants in Ireland Institute of Incorporated Public Accountants Institute of Chartered Accountants in England and Wales Institute of Chartered Accountants of Scotland
Barrister	Council of the Honorable Society of King's Inn
Building Energy Rating (BER) Assessor	Sustainable Energy Authority of Ireland
Building Surveyor Quantity Surveyor	Society of Chartered Surveyors Ireland
<i>The following activities in construction are subject to the possession of a SafePass Certificate and a certificate of competence:</i> Construction Scaffolding — basic Scaffolding — advanced Mobile tower scaffold Tower crane operation Self-erecting tower crane operation Slinging/ signalling Telescopic handler operation Tractor dozer operation Mobile crane operation Crawler crane operation Articulated dumper operation Site dumper operation 180° excavator operation Mini-digger operation 360° excavator operation Roof and wall cladding/sheeting Built-up roof felting Signing, lighting and guarding on roads Locating under-ground services Shotfiring Health and Safety at Roadworks	An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS)

Column 1	Column 2
Profession or professional activity	Competent authority
<p><i>The following activities in quarrying are subject to the possession of a certificate of competence:</i></p> <p>Quarrying Slinging/ signalling Telescopic handler operation Tractor/dozer operation Mobile crane operation Crawler crane operation Articulated dumper operation Rigid dump truck operation Site dumper operation 180° excavator operation Mini-digger operation 360° excavator operation Front end loader operation Shotfiring Explosives Supervision</p>	
Chartered Engineer	Institution of Engineers of Ireland
Audiologist ¹ Environmental Health Officer ¹	Minister for Health
Clinical Biochemist ¹	Minister for Health or, on its designation under Section 27A of the Health and Social Care Professionals Act 2005, the Clinical Biochemists Registration Board
Orthoptist ¹	Minister for Health or, on its designation under Section 27A of the Health and Social Care Professionals Act 2005, the Orthoptists Registration Board
Podiatrist ¹	Minister for Health or, on its designation under Section 27A of the Health and Social Care Professionals Act 2005, the Podiatrists Registration Board
Psychologist ¹	Minister for Health or, on its designation under Section 27A of the Health and Social Care Professionals Act 2005, the Psychologists Registration Board
Dietitian	Dietitians Registration Board
Occupational Therapist	Occupational Therapists Registration Board
Radiation Therapist Radiographer	Radiographers Registration Board
Speech and Language Therapist	Speech and Language Therapists Registration Board
Advanced Paramedic Emergency Medical Technician Paramedic	Pre-Hospital Emergency Care Council
Primary School Teacher ¹ Post-Primary School Teacher ¹ Further Education Teacher ¹	The Teaching Council /An Chomhairle Mhúinteoireachta
Employees of pre-school service providers working directly with children ²	Minister for Children and Youth Affairs

Column 1	Column 2
Profession or professional activity	Competent authority
<p>Chief Engineer Chief Engineer Officer of an oil, chemical or liquefied gas tanker Chief Mate Chief Mate of an oil, chemical or liquefied gas tanker Electro-Technical Officer Electro-Technical Rating Every master, officer, rating and other person serving on a passenger ship designated to perform duties set out in the regulations Every officer and rating assigned specific duties and responsibilities related to cargo or cargo equipment on oil, chemical or liquefied gas tankers Master Master of an oil, chemical or liquefied gas tanker Officer in Charge of a Navigational Watch Officer in Charge of an Engineering Watch Persons designated to perform any of the emergency, occupational safety, security, medical care and survival functions as specified in the Regulations Persons required to be certified in accordance with Regulation III/10.4 of the Safety Convention. Persons with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil, chemical or liquefied gas tankers as the case may be. Radio Operator Rating as Able Seafarer Deck Rating as Able Seafarer Engine Rating forming part of a Navigational Watch Rating forming part of an Engineering Watch Second Engineer Second engineer officer of an oil, chemical or liquefied gas tanker Class 1 Engineer fishing Class 2 Engineer fishing Class 3 Engineer fishing Second Hand Full fishing Second Hand Limited fishing Second Hand Special fishing Skipper Full fishing Skipper Limited fishing Marine Engine Operator Master of a Passenger Boat Ships Cook</p>	<p>Minister for Transport, Tourism and Sport</p>
<p>Dentist/Dental Practitioner Dental Hygienist Dental Nurse³ Clinical Dental Technician Orthodontic Therapist</p>	<p>Dental Council</p>
<p>Dispensing Optician Optometrist</p>	<p>Optical Registration Board</p>

Column 1	Column 2
Profession or professional activity	Competent authority
Doctor/Medical Practitioner	Medical Council
Door Supervisor Security Guard	The Private Security Authority
Driving Instructor	Road Safety Authority
Liquidator Examiner	Irish Auditing and Accounting Supervisory Authority Association of Chartered Certified Accountants Association of International Accountants Chartered Institute of Management Accountants Chartered Institute of Public Finance and Accountancy Institute of Chartered Accountants in England & Wales Institute of Chartered Accountants in Ireland Institute of Chartered Accountants of Scotland Institute of Certified Public Accountants in Ireland Institute of Incorporated Public Accountants Law Society of Ireland
Personal Insolvency Practitioner Approved Intermediary	Insolvency Service of Ireland
Property Service Provider: <ul style="list-style-type: none"> • The auction of property other than land. • The purchase or sale, by whatever means, of land. • The letting of land. • Property management services. 	Property Services Regulatory Authority
Inspector of Air Accidents	The Chief Inspector of the Air Accident Investigation Unit acting with the approval of the Minister for Transport, Tourism and Sport
Medical Scientist ¹	Academy of Clinical Science and Laboratory Medicine or, on its designation under Section 27A of the Health and Social Care Professionals Act 2005, the Medical Scientists Registration Board
Patent Agent Trade Mark Agent	Controller of Patents, Designs and Trademarks
Pharmacist	Council of the Pharmaceutical Society of Ireland
Physiotherapist	Physiotherapists Registration Board
Midwife/Registered Midwife Nurse/Registered Nurse	Nursing and Midwifery Board of Ireland
Pesticide Advisor Pesticide Equipment Inspector Pesticide Distributor Pesticide Professional User/Sprayer Operator	Minister for Agriculture, Food and the Marine
Social Worker	Social Workers Registration Board
Solicitor	Law Society of Ireland
Veterinary Practitioner Veterinary Nurse	Veterinary Council of Ireland

B. Professions and professional activities regulated by professional bodies
which are recognised in a special form by the State.

Column 1	Column 2	Column 3
Profession or professional activity	Abbreviatory Letters	Competent authority
Accounting Technician	ICAI	The Institute of Chartered Accountants in Ireland
Accounting Technician	CAT	Association of Chartered Certified Accountants
Chartered Engineer Engineering Technician Graduate Professional Engineer Technician (Engineering)	C Eng, MIEI Eng Tech IEI A Eng, AMIEI MIEI Tech, IEI	Institution of Engineers of Ireland
Chartered Certified Accountant	ACCA	Association of Chartered Certified Accountants
Certified Public Accountant	ICPAI	The Institute of Certified Public Accountants in Ireland
Chartered Accountant	ICAI, FCA	The Institute of Chartered Accountants in Ireland
Chartered Town Planner	MRTPI	Royal Town Planning Institute Irish Branch, Southern Section
Chemist	FICI, MICI	Institute of Chemistry of Ireland
Incorporated Public Accountant	IIPA	Institute of Incorporated Public Accountants
Tax Consultant	AITI	Irish Taxation Institute
Town Planner/Spatial Planner	MIPI	Irish Planning Institute

1 Regulated for the purposes of access to public sector employment only.

2 Subject to exemptions in Regulation 9(5) and (6) of the Child Care Act 1991 (Early Years Services) Regulations 2016 (S.I. No. 221 of 2016).

3 Regulation only mandatory for dental nurses taking x-rays.

Schedule 2

PROFESSIONS IN WHICH COMPETENT AUTHORITIES ARE
REQUIRED TO PROVIDE FOR AUTOMATIC TEMPORARY
REGISTRATION IN ACCORDANCE WITH REGULATION 12(2)

Advanced Paramedic
Clinical Biochemist¹
Clinical Dental Technician
Dental Hygienist
Dental Nurse
Dentist/Dental Practitioner
Dietitian
Dispensing Optician
Doctor/Medical Practitioner
Emergency Medical Technician
Medical Scientist¹
Midwife/Registered Midwife
Nurse/Registered Nurse
Occupational Therapist
Optometrist
Orthodontic Therapist
Orthoptist¹
Paramedic
Pharmacist
Physiotherapist
Podiatrist¹
Psychologist¹
Radiation Therapist
Radiographer
Speech and Language Therapist
Social Worker

¹ On the designation, as competent authority, of the Registration Board for this profession under Section 27A of the Health and Social Care Professionals Act 2005.

Regulation 15

Schedule 3

PROFESSIONS WHICH HAVE PUBLIC HEALTH OR SAFETY
IMPLICATIONS AND IN RESPECT OF WHICH COMPETENT
AUTHORITIES MAY CHECK PROFESSIONAL QUALIFICATIONS
PRIOR TO FIRST PROVISION OF SERVICES ON TEMPORARY AND
OCCASIONAL BASIS

Advanced Paramedic
 Archaeologist
 Architect¹
 Audiologist
 Building Surveyor
 Chartered Engineer
 Clinical Biochemist
 Clinical Dental Technician
 Dental Hygienist
 Dental Nurse
 Dentist/Dental Practitioner¹
 Dietitian
 Dispensing Optician
 Doctor/Medical Practitioner¹
 Driving Instructor
 Emergency Medical Technician
 Environmental Health Officer
 Medical Scientist
 Midwife/Registered Midwife¹
 Nurse/Registered Nurse¹
 Occupational Therapist
 Optometrist
 Orthodontic Therapist
 Orthoptist
 Paramedic
 Pesticide Advisor
 Pesticide Distributor
 Pesticide Equipment Inspector
 Pesticide Professional User/Sprayer Operator
 Pharmacist¹
 Physiotherapist
 Podiatrist
 Psychologist
 Radiation Therapist
 Radiographer
 Social Worker
 Speech and Language Therapist
 Veterinary Nurse
 Veterinary Practitioner¹

¹ In respect of these professions, a prior check is only allowed where the person has not benefitted from automatic recognition of qualifications under Parts 6 to 14.

Schedule 4

LEVELS OF QUALIFICATION UNDER GENERAL SYSTEM FOR
RECOGNITION OF EVIDENCE OF TRAINING

- (a) an attestation of competence issued by a competent authority in the home Member State designated pursuant to legislative, regulatory or administrative provisions of that Member State, on the basis of—
 - (i) a training course not forming part of a certificate or diploma within the meaning of level (b), (c), (d) or (e), or a specific examination without prior training, or full-time pursuit of the profession in a Member State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years, or
 - (ii) general primary or secondary education, attesting that the holder has acquired general knowledge;
- (b) a certificate attesting to a successful completion of a secondary course—
 - (i) general in character, supplemented by a course of study or professional training other than those referred to in level (c) and/or by the probationary or professional practice required in addition to that course, or
 - (ii) technical or professional in character, supplemented where appropriate by a course of study or professional training as referred to in point (i), and/or by the probationary or professional practice required in addition to that course;
- (c) a diploma certifying successful completion of—
 - (i) training at post-secondary level other than that referred to in levels (d) and (e) of a duration of at least one year or of an equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education or the completion of equivalent school education of the second secondary level, as well as the professional training which may be required in addition to that postsecondary course, or
 - (ii) regulated education and training or, in the case of regulated professions, vocational training with a special structure, with competences going beyond what is provided for in level (b), equivalent to the level of training provided for under point (i), if such training provides a comparable professional standard and prepares the trainee for a comparable level of responsibilities and

functions provided that the diploma is accompanied by a certificate from the home Member State;

- (d) a diploma certifying that the holder has successfully completed training at post-secondary level of at least three and not more than four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he or she has successfully completed the professional training required in addition to the post-secondary course;
- (e) a diploma certifying that the holder has successfully completed a post-secondary course of at least four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he or she has successfully completed the professional training required in addition to the post-secondary course.

Schedule 5

PROFESSIONS AND PROFESSIONAL ACTIVITIES WHOSE PURSUIT
REQUIRES PRECISE KNOWLEDGE OF NATIONAL LAW AND IN
RESPECT OF WHICH THE PROVISION OF ADVICE OR ASSISTANCE
CONCERNING NATIONAL LAW IS AN ESSENTIAL AND CONSTANT
ASPECT OF THE PROFESSIONAL ACTIVITY

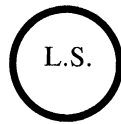
Accounting Technician
Architect
Approved Intermediary
Auditing Company Accounts
Auditing Company Accounts Public
Barrister
Building Energy Rating (BER) Assessor
Building Surveyor
Certified Accountant
Certified Public Accountant
Chartered Accountant
Chartered Engineer
Driving Instructor
Examiner
Liquidator
Patent Agent
Personal Insolvency Practitioner
Solicitor
Tax Consultant
Trade Mark Agent

Regulations 72 and 73

Schedule 6

PROFESSIONS AND COMPETENT AUTHORITIES TO WHICH PART 9
(EUROPEAN PROFESSIONAL CARD) APPLIES

Column 1	Column 2
Profession	Competent authority
Nurses responsible for general care	Nursing and Midwifery Board of Ireland
Pharmacist (basic training)	Council of the Pharmaceutical Society of Ireland
Physiotherapists	Physiotherapists Registration Board
Mountain guides	Minister for Education and Skills
Real estate agents	Property Services Regulatory Authority



GIVEN under my Official Seal,
17 January 2017.

RICHARD BRUTON,
Minister for Education and Skills.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations (1) give effect to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 and Commission Delegated Decision (EU) 2016/790 of 13 January 2016, (2) give full effect to Commission Implementing Regulation (EU) 2015/983 of 24 June 2015, and (3) give effect to Article 49 of the Treaty on the Functioning of the European Union in so far as that Article relates to the recognition of pharmacist qualifications.

These Regulations revoke the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008, as well as a number of similar Regulations in relation to particular health professions.

These Regulations may be cited as the European Union (Recognition of Professional Qualifications) Regulations 2017.

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