



STATUTORY INSTRUMENTS

**S.I. No. 139 of 2008**

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RECOGNITION OF PROFESSIONAL QUALIFICATIONS (DIRECTIVE  
2005/36/EC) REGULATIONS, 2008

**(Prn. A8/0609)**

## RECOGNITION OF PROFESSIONAL QUALIFICATIONS (DIRECTIVE 2005/36/EC) REGULATIONS, 2008

## Part 1

I, MARY HANAFIN, Minister for Education and Science, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) as amended by the European Communities Act 2007 (No. 18 of 2007), and for the purpose of giving effect to Council Directive No. 2005/36/EC of 7 September 2005<sup>1</sup>, Council Directive No. 2006/100/EC of 20 November 2006<sup>2</sup>, Article 24 of Council Directive No. 2004/38/EC of 29 April 2004<sup>3</sup>, Article 27 of Council Directive No. 2004/83/EC of 29 April 2004<sup>4</sup>, hereby make the following regulations:

*Citation*

1. (1) These Regulations may be cited as the Recognition of Professional Qualifications (2005/36/EC) Regulations, 2008.

(2) These Regulations shall come into operation on the 6th day of May 2008.

*Interpretation*

2. (1) In these Regulations, except where the context otherwise requires:—

“adaptation period” means the pursuit of a regulated profession in the State under the responsibility of a qualified member of that profession, such period of supervised practice possibly being accompanied by further training. This period of supervised practice shall be the subject of an assessment. The detailed rules governing the adaptation period and its assessment as well as the status of an applicant under supervision shall be laid down by the relevant competent authority. The status enjoyed in the State by the person undergoing the period of supervised practice, 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 accordance with applicable Community law;

“applicant” means a person who makes an application;

“application” means an application made pursuant to these Regulations and the Directive by a national of a Member State to a competent authority for authorisation to take up or pursue a regulated profession in the State;

<sup>1</sup> OJ L 255, 30.09.2005, p.22.

<sup>2</sup> OJ L 363, 20.12.2006, p.141.

<sup>3</sup> OJ L 229, 29.06.2004, p.35.

<sup>4</sup> OJ L 304, 30.09.2004, p.12.

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th May, 2008.*

“aptitude test” means a test limited to the professional knowledge of the applicant, made by the competent authorities of the State with the aim of assessing the ability of the applicant to pursue a regulated profession in the State. In order to permit this test to be carried out, the competent authorities 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. The 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 comes. It shall cover subjects to be selected from those on the list, knowledge of which is essential in order to be able to pursue the profession in the State. The test may also include knowledge of the professional rules applicable to the activities in question in the State. The detailed application of the aptitude test and the applicant's status in the State shall be determined by the competent authorities in the State;

“attestation of competence” means any evidence of qualifications—

- (a) attesting to education and training other than education and training constituting a diploma or certificate, or
- (b) awarded following an assessment of the personal qualities, aptitudes or knowledge which it is considered essential that the applicant have for the pursuit of a profession by an authority designated in accordance with the laws, regulations or administrative provisions of a Member State without proof of prior education and training being required;

“competent authority” means any authority or body empowered by the State specifically to issue or receive training diplomas and other documents or information and to receive the applications, and take the decisions, referred to in these Regulations and the Directive;

“corresponding profession” means in relation to a regulated profession in the State that is the subject of an application, means a profession in another Member State which corresponds substantially to the first-mentioned profession;

“the Directive” means Council Directive No. 2005/36/EC of 7 September 2005;

“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 Community. Where a qualification has been obtained in a third country, the conditions set out in Regulation 3.1(b) apply;

“Establishment” means the actual pursuit of an economic activity as referred to in Article 43 of the EU Treaty by the provider for an indefinite period and, where applicable, through a stable infrastructure from where the business of providing services is actually carried out;

“FÁS” means An Foras Áiseanna Saothair;

“the Minister” means the Minister for Education and Science;

“manager of an undertaking” means any person who in an undertaking in the occupational field in question has pursued an activity:

- (i) as a manager of an undertaking or a manager of a branch of an undertaking; or
- (ii) 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
- (iii) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking;

“national coordinator” means the person appointed by the Minister pursuant to Regulation 26(1);

“professional experience” means in relation to a regulated profession that is the subject of an application, means the actual and lawful pursuit in another Member State of a corresponding profession;

“regulated education and training” means any education and training which is directly geared to the pursuit of a defined profession, and which comprises a course or courses complemented, where appropriate, by professional training, or probationary or professional practice. The structure and level of the professional training, probationary or professional practice shall be determined by the laws, regulations or administrative provisions of the Member State concerned, or monitored or approved by the authority designated for that purpose;

“regulated profession” means a professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which, is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications: in particular, the use of a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification shall constitute a mode of pursuit. Where the first sentence of this definition does not apply, a profession referred to in paragraph (2) shall be treated as a regulated profession;

“relevant activity” means, insofar as activities under Regulations 10, 11, 12, 13 and 14 refer, an activity which falls within the lists of activities set out in Annex IV of the Directive;

“service” means any self employed economic activity normally provided for remuneration, as referred to in Article 50 of the EU Treaty.

(2) (a) A profession practised by the members of an association or organisation listed in Annex I of the Directive shall be treated as a regulated profession.

(b) The purpose of the associations or organisations referred to in subparagraph (a) is, in particular, to promote and maintain a high standard in the professional field concerned. To that end they are recognised in a special form by a Member State and award evidence of formal qualifications to their members, ensure that their members respect the rules of professional conduct which they prescribe, and confer on them the right to use a title or designatory letters or to benefit from a status corresponding to those formal qualifications.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless a contrary intention appears, the meaning in these Regulations that it has in the Directive.

(4) For the purposes of these Regulations and the Directive, the Department of Education and Science is both the national contact point and the designated national co-ordinator for the activities of the competent authorities.

(5) For the purpose of these regulations, the profession which the applicant wishes to pursue in the host Member State is the same as that for which he is qualified in his home Member State if the activities are comparable.

(6) In these Regulations—

(a) a reference to a Regulation or Part is a reference to a Regulation or Part to these Regulations unless it is indicated that reference to some other provision is intended,

(b) a reference to a Schedule is a reference to a Schedule of these Regulations unless it is indicated that a reference to some other provision is intended,

(c) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended,

(d) any reference to an Annex of the Directive shall be treated as encompassing the Annexes set out in Council Directive 2005/36/EC as updated by the additions in Council Directive 2006/100/EC on foot of the accession of Bulgaria and Romania,

- (e) any reference to an Annex of the Directive shall be treated as encompassing subsequent updates made from time to time on foot of the accession of additional Member States, or on the basis of decisions made the Committee established under Article 58 of the Directive.

*Scope of the Regulations*

3. (1) These Regulations shall apply to

- (a) EU citizens seeking to practice a regulated profession on an employed or self employed basis in a Member State who have gained their qualifications wholly or mainly in a Member State,
- (b) EU citizens seeking to practice a regulated profession in a Member State on an employed or self employed basis whose qualifications have been issued by a third country, where another Member State has certified that they have three years professional experience in the profession concerned on its territory, that Member State having recognised the evidence of formal qualifications in accordance with the Directive,
- (c) the family members of EU citizens, as defined in Article 2(2) and Article 3 of Council Directive 2004/38/EC, who are not nationals of a Member State but who have been given the right of residence or permanent residence, under that directive,
- (d) persons granted refugee or subsidiary protection status in the State, and their dependant family members, as set out in Council Directive 2004/83/EC.

(2) Where, for a given regulated profession, other specific arrangements directly related to the recognition of professional qualifications are established in a separate instrument of Community law, the corresponding provisions of this Directive shall not apply.

(3) The professions and professional activities which are regulated in the State are set out in Schedules 1, 2 and 3. Schedule 1 sets out the professions and professional activities which are regulated by law in the State. Schedule 2 sets out professions and professional activities regulated by professional bodies which are recognised in a special form by the State. Schedule 3 sets out the professions and professional activities where the competent authorities, notwithstanding Regulation 8(2), may stipulate an adaptation period or an aptitude test. Schedule 4 lists those professions which may be the subject of a prior check under regulation 17(3).

## Part 2

## Freedom of Establishment

*General system for the recognition of evidence of training**Scope of application of the General System*

4. (1) These Regulations apply to all professions which are regulated in the State and which

- (a) are not covered by Regulations 10, 11, 12 and 13 relating to relevant activities covered by Articles 17, 18 and 19 and Annex IV of the Directive, as updated by 2006/100/EC in respect of professional qualifications in Bulgaria and Romania,
- (b) are not subject to automatic recognition under the harmonised training conditions set out in Articles 21 to 49 and Annexes 5 and 6 of the Directive for doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects, as updated by 2006/100/EC in respect of professional qualifications in Bulgaria and Romania.

(2) Where an applicant's qualifications and/or experience are not eligible for recognition under Articles 17, 18 or 19, or 21 to 49 of the Directive they fall to be considered under the General System set out in these regulations, subject to the condition that the minimum training conditions set out in the Directive for the professions at 4(1)(b) are met.

*Conditions for Recognition*

5. (1) (a) Where access to or pursuit of a regulated profession in the State is contingent upon possession of specific professional qualifications, the competent authority shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory.
- (b) For the purposes of subparagraph (a), attestations of competence or evidence of formal qualifications shall satisfy the following conditions:
- (i) they shall have been issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State;
  - (ii) they shall attest a level of professional qualification at least equivalent to *the level immediately prior* to the level which is required in this State for the practice of that profession, in accordance with the levels of qualification defined in Regulation 6;

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

(2) (a) Access to and pursuit of a regulated profession shall also be granted to applicants *who have pursued the profession concerned on a full-time basis for two years during the previous 10 years in another Member State which does not regulate that profession*, providing they possess one or more attestations of competence or documents providing evidence of formal qualifications.

(b) For the purposes of subparagraph (a), attestations of competence or evidence of formal qualifications shall satisfy the following conditions:

(i) they shall have been issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State;

(ii) they shall attest a level of professional qualification at least equivalent to *the level immediately prior* to the level which is required in this State for the practice of that profession, in accordance with the levels of qualification defined in Regulation 6;

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

(c) The two years' professional experience referred to in subparagraph (a) may not, however, be required if the evidence of formal qualifications which the applicant possesses certifies regulated education and training within the meaning ascribed to that phrase in Regulation 2 (1) at the levels of qualifications described in Regulation 6 at Levels B, C, D or E.

(3) Notwithstanding paragraphs (1) and (2), the competent authority shall permit access and pursuit of a regulated profession where access to that profession is contingent upon possession of a qualification certifying successful completion of higher or university education of four years duration, and where the applicant possesses a qualification at Level C in Regulation 6.

#### *Levels of Qualification*

6. (1) For the purpose of applying Regulation 5, the professional qualifications are grouped under the following levels as described below:

Level 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) either a training course not forming part of a certificate or diploma within the meaning of qualifications at Levels 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,

- (ii) or general primary or second level education, attesting that the holder has acquired general knowledge;

Level B: a certificate attesting to a successful completion of a second level education course,

- (i) either 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,
- (ii) or technical or professional in character, supplemented where appropriate by a course of study or professional training as referred to in (i), and/or by the probationary or professional practice required in addition to that course;

Level C: a diploma certifying successful completion of

- (i) either training at post-second 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 second level course required to obtain entry to university or higher education or the completion of equivalent second level education, as well as professional training which may be required in addition to that post-second level course; or
- (ii) in the case of a regulated profession, training with a special structure, *included in Annex II of the Directive*, equivalent to the level of training provided for under (i), which provides a comparable professional standard and which prepares the trainee for a comparable level of responsibilities and functions;

Level D: a diploma certifying successful completion of training at post-second level *of at least three and not more than four years' duration*, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment providing the same level of training, as well as the professional training which may be required in addition to that post-second level course;

Level E: a diploma certifying that the holder has successfully completed a post-second level course *of at least four years' duration*, or of an equivalent duration on a part-time basis, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-second level course.

The competent authority shall permit access and pursuit of a regulated profession where access to this profession is contingent in its territory upon possession of a qualification certifying successful completion of higher or university education of four years' duration, and where the applicant possesses a qualification at Level C.

*Equal treatment of qualifications*

7. (1) Any evidence of formal qualifications or set of evidence of formal qualifications issued by a competent authority in a Member State, certifying successful completion of training in the Community which is recognised by that Member State as being of an equivalent level and which confers on the holder the same right of access to or pursuit of a profession or prepares for the pursuit of that profession, shall be treated as evidence of formal qualifications of the type covered by Regulations 5 and 6, 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 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 is considered by the State, for the purposes of the application of Regulation 6 as corresponding to the level of the new training.

*Compensation measures*

8. (1) Notwithstanding Regulation 5, the competent authority may require the applicant to complete an adaptation period of up to three years or to take an aptitude test if:

- (a) the duration of the training of which he provides evidence under the terms of Regulation 5, paragraph (1) or (2), is at least one year shorter than that required by the State;
- (b) the training he has received covers substantially different matters than those covered by the evidence of formal qualifications required in the State;
- (c) 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 within the meaning of Regulation 2(5), and that difference consists in specific training which is required in the State and which covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.

- (2) (a) If the competent authority 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.
- (b) Where the State considers, with respect to a given profession, that it is necessary to derogate from the requirement, set out in subparagraph (a), to give the applicant a choice between an adaptation period and an aptitude test, the State shall inform the other Member States and the Commission of this in advance together with sufficient justification for the derogation.
- (c) If, after receiving all necessary information, the Commission considers that the derogation sought is inappropriate or that it is not in accordance with Community law, it shall, within three months, ask the State to refrain from taking the envisaged measure. In the absence of a response from the Commission within the abovementioned deadline, the derogation may be applied.
- (3) By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph (2) the competent authority may stipulate either an adaptation period or an aptitude test in the following cases:
- (a) professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity;
- (b) where the applicant does not meet the requirements for automatic recognition under the harmonised conditions set out in Articles 21-49 of the Directive for the professions of doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects, or does not meet the experience requirements set out in Regulations 11, 12 and 13 for the professions set out in Annex IV of the Directive respectively. In such cases, where a substantial difference has been identified, or a shortfall in training of at least one year, an aptitude test or adaptation period may be applied;
- (c) In cases where the applicant does not meet the requirements stipulated in Regulations 10 to 13, where the applicant 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 authorities of the State for access to such activities by nationals of the State.

(4) For the purpose of applying paragraph (1)(b) and (c), “substantially different matters” means matters of knowledge which are essential for pursuing the profession and with regard to which the training received by the applicant shows important differences in terms of duration or content from the training required by the State.

(5) Paragraph (1) shall be applied with due regard to the principle of proportionality. In particular, if the State intends to require the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge acquired by the applicant in the course of his professional experience in a Member State or in a third country, is of a nature to cover, in full or in part, the substantial difference referred to in paragraph (4).

*Waiving of compensation measures on the basis of common platforms*

9. (1) For the purpose of this Regulation, “common platforms” is defined as a set of criteria of professional qualifications which are suitable for compensating for substantial differences which have been identified between the training requirements existing in the various Member States for a given profession. These substantial differences shall be identified by comparison between the duration and contents of the training in at least two thirds of the Member States, including all Member States which regulate this profession. The differences in the contents of the training may result from substantial differences in the scope of the professional activities.

(2) Proposals for common platforms may be submitted to the Commission by Member States or by professional associations or organisations which are representative at national and European level. If the Commission, after consulting the Member States, is of the opinion that a draft common platform facilitates the mutual recognition of professional qualifications, it may present draft measures with a view to their adoption by the Committee established under Article 58 of the Directive.

(3) Where a common platform has been adopted and an applicant's professional qualifications satisfy the criteria set out in the common platform, the competent authority shall waive the application of compensation measures under Regulation 8.

(4) Paragraphs 1 to 3 shall not affect the competence of the State to decide the professional qualifications required for the pursuit of professions in the State as well as the contents and the organisation of systems of education and professional training.

(5) If a Member State considers that the criteria established in a common platform adopted in accordance with paragraph 2 no longer offer adequate guarantees with regard to professional qualifications, it shall inform the Commission accordingly, which shall, if appropriate, refer the matter for review to the Committee established under Article 58 of the Directive.

## Part 3

## Recognition of professional experience

*Requirements regarding professional experience*

10. If, in the State, access to or pursuit of one of the activities listed in Annex IV of the Directive is contingent upon possession of general, commercial or professional knowledge and aptitudes, the competent authority shall recognise previous pursuit of the activity in another Member State as sufficient proof of such knowledge and aptitudes. The activity must have been pursued in accordance with Regulations 11, 12 and 13.

*Activities referred to in list I of Annex IV*

11. (1) For the activities in list I of Annex IV of 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; or
- (b) for three consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary proves that he has received previous training of at least three years for the activity in question, evidenced by a certificate recognised by the Member State or judged by a competent professional body to be fully valid; or
- (c) for four consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary can prove that he has received, for the activity in question, previous training of at least two years' duration, attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid; or
- (d) for three consecutive years on a self-employed basis, if the beneficiary can prove that he 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 has received, for the activity in question, previous training of at least three years' duration, as attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid.

(2) In cases (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 ISIC Nomenclature.

*Activities referred to in list II of Annex IV of the Directive*

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

(2) In cases (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 referred to in Regulation 14.

*Activities referred to in list III of Annex IV*

13. (1) For the activities in list III of Annex IV of 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, or
- (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 has received previous training for the activity in question, as attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid, or

- (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 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 has received previous training for the activity in question, as attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid.

(2) In cases (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 referred to in Regulation 14.

14. (1) For the purposes of Regulations 11, 12 and 13 a person shall be regarded as having pursued an activity as a manager of an undertaking if he or she has pursued such an activity in an undertaking in the occupational field in question as a manager of an undertaking or a manager of a branch of an undertaking, or

- (a) 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
- (b) in a managerial post with duties of a commercial or technical nature, or both, and with responsibility for one or more departments of the undertaking.

(2) For the purposes of this Part, FÁS is the competent authority in the State. Where a person applies for a certificate in respect of a relevant activity under these regulations, FÁS shall issue such a certificate provided it is satisfied that the applicant has the relevant qualifications and experience gained in the State as required under these Regulations. A relevant activity is an activity which falls within the lists of activities set out in Annex IV of the Directive.

#### Part 4

##### Free Provision of Services on a temporary or occasional basis

15. (1) Without prejudice to specific provisions of Community law, as well as to Regulations 16 and 17, the competent authority shall not restrict, for any reason relating to professional qualifications, the free provision of services by a service provider in the State on a temporary or occasional basis:

- (a) if the service provider is legally established in a Member State for the purpose of pursuing the same profession there (hereinafter referred to as the Member State of establishment), and

- (b) where the service provider moves, if he has pursued that profession in the Member State of establishment for at least two years during the 10 years preceding the provision of services when the profession is not regulated in that Member State. The condition requiring two years' pursuit shall not apply when either the profession or the education and training leading to the profession is regulated.
- (2) The provisions of this Part shall only apply where the service provider moves to the territory of the State to pursue, on a temporary and occasional basis, the profession referred to in paragraph (1).
- (3) (a) The temporary and occasional nature of the provision of services shall be assessed case by case, in particular in relation to its duration, its frequency, its regularity and its continuity.
- (b) To assist the service provider, the competent authorities shall publish general guidelines as to what might constitute a temporary or occasional service in each profession.
- (c) Except where the contrary is proven, applicants who complete a declaration of intention to provide a temporary or occasional service shall be presumed to fall within the scope of Part 4 of these Regulations. A service provider offering a service on a stable and continuous basis where he has an established base offering services to nationals of the State, is subject to be treated under the rights of establishment set out in the Directive.
- (4) Where a service provider moves, he shall be subject to professional rules of a professional, statutory or administrative nature relating to the pursuit of the profession which are directly linked to professional qualifications, such as the scope of practice of the profession, the use of titles, and serious malpractice issues which are directly and specifically linked to consumer protection and safety, as well as disciplinary provisions which are applicable to professionals who pursue the same profession in the State.

#### *Exemptions*

16. (1) Pursuant to Regulation 15, the State shall exempt service providers established in another Member State from the requirements which it places on professionals established in the State relating to:

- (a) authorisation by, registration with or membership of a professional organisation or body. In order to facilitate the application of disciplinary provisions in force in the State according to Regulation 15(4), the relevant competent authority may provide either for automatic temporary registration with or for pro forma membership of such a 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. A copy of the declaration and, where applicable, of

the renewal referred to in Regulation 17(1), accompanied, for professions which have implications for public health and safety referred to in Regulation 17(3) or which benefit from automatic recognition under the harmonised training conditions set out in Articles 21 to 49 and Annexes 5 and 6 of the Directive, by a copy of the documents referred to in Regulation 17(1) shall be sent by the competent authority to the relevant professional organisation or body, and this shall constitute automatic temporary registration or pro forma membership for this purpose;

- (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.

The service provider shall, however, inform in advance or, in an urgent case, afterwards, the body referred to at (b) of the services which he has provided.

*Declaration to be made in advance, if the service provider moves*

17. (1) Where the service provider first enters the State from another Member State in order to provide services, he shall inform the relevant competent authority as listed in Schedules 1, 2 and 3 of these regulations, in a written declaration to be made in advance. This may include the details of any insurance cover or other means of personal or collective protection with regard to professional liability as may be prescribed by the competent authority. Such declaration shall be renewed once a year if the service provider intends to provide temporary or occasional services in the State during that year. The service provider may supply the declaration by any means. Moreover, for the first provision of services in the State or if there is a material change in the situation substantiated by the documents, the declaration is to 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 for the purpose of pursuing the activities concerned and that he is not prohibited from practicing, even temporarily, at the moment of delivering the attestation;
- (c) evidence of professional qualifications;
- (d) for cases referred to in Regulation 15(1)(b), any means of proof that the service provider has pursued the activity concerned for at least two years during the previous ten years;
- (e) for professions in the security sector, evidence of no criminal convictions where this is also required for nationals of the host state.

(2) The service shall be provided under the professional title of the Member State of establishment, in so far as such a title exists in that Member State for the professional activity in question. That title shall be indicated in the official language or one of the official languages of the Member State of establishment

in such a way as to avoid any confusion with the professional title of the State. Where no such professional title exists in the Member State of establishment, the service provider shall indicate his formal qualification in the official language or one of the official languages of that Member State. By way of exception, the service shall be provided under the professional title of the host Member State for cases subject to automatic recognition under the harmonised training conditions set out in Articles 21 to 49 and Annexes 5 and 6 of the Directive.

- (3) (a) For the first provision of services, in the case of regulated professions having public health or safety implications other than those which benefit from automatic recognition in the fields of doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects under Articles 21 to 49 of the Directive, the relevant competent authority of the State may check the professional qualifications of the service provider prior to the first provision of services. Such a prior check 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 this does not go beyond what is necessary for that purpose. Such a prior check shall apply only to persons pursuing regulated professional activities in the health, social care and veterinary professions who are not eligible for automatic recognition under Articles 21 to 49 of the Directive. Schedule 4 sets out the professions or professional activities to which a prior check may apply.
- (b) Within a maximum of one month of receipt of the declaration and accompanying documents, the competent authority shall endeavor to inform the service provider either of its decision not to check his qualifications or of the outcome of such check. Where there is a difficulty which would result in delay, the competent authority shall notify the service provider within the first month of the reason for the delay and the timescale for a decision, which must be finalised within the second month of receipt of completed documentation.
- (c) Where there is a substantial difference between the professional qualifications of the service provider and the training required in the State, to the extent that that difference is such as to be harmful to public health or safety, the State shall give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence lacking. In any case, it must be possible to provide the service within one month of a decision being taken in accordance with the previous subparagraph.
- (d) In the absence of a reaction of the competent authority within the deadlines set in the previous subparagraphs, the service may be provided.

- (e) In cases where qualifications have been verified under this paragraph, the service shall be provided under the professional title of the State.
- (4) (a) The competent authority may ask the competent authority of the Member State of establishment, for each provision of services, to provide any information relevant to the legality of the service provider's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. The competent authority of the Member State of establishment shall provide this information in accordance with Regulation 28. On being requested to do so, the competent authorities in the State shall also supply similar information on the same basis to competent authorities in another Member State in respect of persons who pursue, or have pursued a regulated professional activity in the State.
- (b) The competent authority shall ensure the exchange of all information necessary for complaints by a recipient of a service against a service provider to be correctly pursued. Recipients shall be informed of the outcome of the complaint.

*Information to be given to the recipients of the service*

18. (1) In cases where the service is provided under the professional title of the Member State of establishment or under the formal qualification of the service provider, in addition to the other requirements relating to information contained in Community law, the Competent Authority may require the service provider to supply the recipient of the service with any or all of the following information where he/she is requested to do so by that recipient:

- (a) if the service provider is registered in a commercial register or similar public register, the register in which he is registered, his registration number, or equivalent means of identification contained in that register;
- (b) if the activity is subject to authorisation in the Member State of establishment, 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 the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment<sup>5</sup>;

<sup>5</sup> OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

- (f) details of any insurance cover or other means of personal or collective protection with regard to professional liability.

## Part 5

### Common Provisions on Establishment

#### *Documentation and formalities*

19. (1) Competent authorities may demand submission of the following documents and certificates for the purpose of considering an application for establishment in a regulated profession in the State:—

- (a) Proof of the nationality of the applicant.
- (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) For the cases referred to in Regulation 10, 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 foreign national comes.
- (d) Where it is required of nationals of the State wishing to take up the regulated profession, proof that the applicant is of good character or repute or that he not been declared bankrupt.
- (e) Where it is required of nationals of the State wishing to take up the regulated profession, a document relating to the physical or mental health of the applicant.
- (f) Where it is required of nationals of the State wishing to take up the regulated profession, proof of the applicant's financial standing,
- (g) Where it is required of nationals of the State wishing to take up the regulated profession, proof that the applicant is insured against the financial risks arising from his professional liability in accordance with the laws and regulations in force in the State regarding the terms and extent of cover.

(2) The competent authorities may invite the applicant to provide information, under paragraph 1(b), concerning his training to the extent necessary in order to determine the existence of potential substantial differences with the required national training, as laid down in Regulation 8. Where it is impossible for the applicant to provide this information, the competent authorities shall address the contact point, the competent authority or any other relevant body in the home Member State.

(3) (a) Where the competent authority requires of the applicant proof that they are of good character or repute or that they have not been declared bankrupt, under paragraph 1(c), or suspends or prohibits the pursuit of that profession in the event of serious professional misconduct or a criminal offence, the competent authority shall accept as sufficient evidence the production of documents issued by competent authorities in the home Member State or the Member State from which the foreign national comes, showing that those requirements are met. Those authorities must provide the documents required within a period of two months.

(b) Where the competent authorities of the home Member State or of the Member State from which the foreign national comes do not issue the documents referred to in subparagraph (a), such documents shall be replaced by a declaration on oath — or, in States where there is no provision for declaration on oath, by a solemn declaration — 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 the person comes; such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

(4) For the purpose of paragraph 1(e), the competent authority shall accept as sufficient evidence the presentation of the document required in the home Member State. Where the home Member State does not issue such a document, the competent authority shall accept a certificate issued by a competent authority in that Member State. In that case, the competent authorities of the home Member State must provide the document required within a period of two months.

(5) For the purpose of paragraph 1, subparagraphs (f) and (g), the competent authority shall accept as sufficient evidence an attestation to that effect issued by the banks and insurance undertakings of another Member State.

(6) A competent authority shall accept, as valid and sufficient proof, for the purposes of the Directive, the appropriate diploma, certificate or other document in relation to that matter duly issued by the appropriate competent authority in the Member State concerned, unless the contrary is proved.

(7) The documents referred to in paragraph (1), subparagraphs (d), (e), (f) and (g), paragraph (2), paragraph (3), paragraph (4) and paragraph (5) shall not be more than three months old by the date on which they are submitted.

(8) Where nationals of the State are required to swear a solemn oath or make a sworn statement in order to gain access to a regulated profession, and where the wording of that oath or statement cannot be used by a national of another Member State, the competent authority shall ensure that the applicant can use an appropriate equivalent wording.

*Justified doubts.*

20. (1) In the event of justified doubts, the competent authority may require from the competent authorities of a Member State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other Member State. In addition, the competent authorities in a Member State may also be asked to confirm where appropriate that the minimum training conditions prescribed in Articles 21 to 49 and Annexes 5 and 6 of the Directive for the professions of doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects have been met.

(2) In cases of justified doubt where evidence of formal qualifications has been issued by a competent authority in a Member State and includes training received in whole or in part in an establishment legally established in the territory of another Member State, the competent authority in the State shall be entitled to 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.

*False Declaration*

21. (1) Any person who procures or attempts to procure the issue of a certificate by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) An offence under paragraph (1) may be prosecuted by the competent authority.

(3) Subject to this Regulation, the competent authority may revoke a certificate where it is satisfied that—

- (a) the certificate in question was issued in reliance upon a representation or declaration in respect of which a person has been convicted of an offence under Paragraph (1), or
- (b) information in reliance upon which the certificate concerned has been issued is not correct or is not correct in a material particular and that

the experience or qualifications to which the certificate attests have not been attained.

(4) Where the competent authority proposes to revoke a certificate, it shall by notice in writing to the applicant—

(a) inform the applicant of its intention to revoke the certificate and the reasons for this,

(b) identify—

(i) the false representations or declarations in respect of which a person has been convicted of an offence, or

(ii) the incorrect information upon which the certificate concerned was issued,

and

(c) invite the applicant to make representations to the competent authority within a month of the date of the notice.

(5) If, at the end of the period provided for in paragraph (4), subparagraph (c), the competent authority, having considered any representations made to it by or on behalf of the applicant, remains of the view that the certificate of the applicant should be revoked then the competent authority may, by notice in writing, revoke the certificate and state the reasons for the revocation.

*Procedure for the mutual recognition of professional qualifications*

22. (1) The competent authority shall acknowledge receipt of the application within one month of receipt and inform the applicant of any missing document.

(2) The procedure for examining an application for authorisation to practice a regulated profession must be completed as quickly as possible and lead to a duly substantiated decision by the competent authority in any case within three months after the date on which the applicant's complete file was submitted. However, this deadline may be extended by one month in cases falling under Parts 2 and 3 of these Regulations.

(3) Where a prior check may be required prior to the provision of services on a temporary or occasional basis for persons in the health, social care and veterinary professions who do not qualify under the harmonised conditions set out for automatic recognition under Articles 21 to 49 of the Directive, the time-scales set out in Regulation 17(3) shall apply.

*Appeals to the High Court*

23. (1) An applicant may appeal to the High Court any decision of a competent authority, or any failure of a competent authority to make a decision, in relation to an application by him.

(2) 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 any decision of the competent authority concerned in relation to the application concerned,
  - (b) make any decision in relation to the application that could be made by the competent authority,
  - (c) remit the application with or without directions to the competent authority for reconsideration and the making of a new decision in relation to it,
  - (d) make such other order as may be appropriate for the purpose of doing justice.
- (3) An appeal under this Regulation shall be brought—
- (a) within 42 days of the date upon which the decision concerned is communicated to the applicant concerned, or
  - (b) in the case of failure by the competent authority concerned to make a decision in relation to the application concerned, within 42 days of the expiration of the periods of time specified in Regulation 22(2).

(4) A decision of the High Court on an appeal under this Regulation shall be final and not appealable.

*Use of Professional and Academic titles*

24. (1) Without prejudice to Regulation 17, an applicant who has been authorised pursuant to these Regulations to take up or pursue a regulated profession may, and shall be permitted by the appropriate competent authority to use—

- (a) the professional title and any abbreviated letters relating to the profession in the State, and
- (b) the lawful academic or professional title and, where appropriate, the abbreviation thereof relating to the profession deriving from his Member State of origin or the Member State from which he came, in the language of that State followed, if so required by the competent authority, by the name and location of establishment or body by which it was awarded.

Where an academic title of the home Member State is liable to be confused with a title which, in the latter Member State, requires supplementary training not acquired by the beneficiary, the host Member State may require the beneficiary to use the academic title of the home Member State in an appropriate form, to be laid down by the host Member State.

(2) Where a profession is regulated by an association or organisation within the meaning of Regulation 2(2), nationals of Member States shall not be authorised to use the professional title issued by that organisation or association, or its abbreviated form, unless they furnish proof that they are members of that association or organisation.

If the association or organisation makes membership contingent upon certain qualifications, it may do so, only under the conditions laid down in this Directive, in respect of nationals of other Member States who possess professional qualifications.

*Knowledge of languages*

25. (1) Persons benefiting from the recognition of professional qualifications are required to have a competence in language necessary for practicing the profession in the State.

(2) The consideration of linguistic competence of an applicant can only be considered by the competent authority after it has considered the recognition of qualifications under these Regulations. Registration with a competent authority may not be the subject of a prior language test.

(3) Any consideration of linguistic competence should be proportionate to the requirements of the particular activity being pursued by the applicant. Language testing may not be applied systematically or in a standardised form which does not take full account of the linguistic knowledge and experience of the applicant and the nature of the service or activity being provided.

(4) Professionals may attest their language competence through any reasonable means of proof, including:—

- (a) evidence of having completed a significant part of their education or training through the target language, or
- (b) a certificate attesting to the required level of competence in the target language issued by any institution of higher education or attested by an internationally recognised language testing instruments.

(5) An applicant shall not be required to possess a particular diploma available in one institution only.

*Co-ordination*

26. (1) The Minister shall appoint an official of the Department to co-ordinate the activities of the designated authorities in the State. The remit of the national coordinator shall be

- (a) to promote uniform application of the Directive to all the professions concerned,
- (b) and to collate all the information which is relevant for the application of these Regulations and the Directive, such as the conditions for access to regulated professions in Member States.

(2) The competent authorities shall furnish to the national coordinator, at his request, such information as he may reasonably require for the purposes of his functions under these Regulations and the Directive.

(3) For the purpose of fulfilling the remit described in paragraph (1), subparagraph (b), the national coordinator may solicit the help of contact points designated by Member States.

(4) The national coordinator shall also be the contact point for the State. His remit in this capacity shall be:

(a) to provide the citizens and contact points of the other Member States with such information as is necessary concerning the recognition of professional qualifications provided for in these Regulations and the Directive, such as information on the national legislation governing the professions and the pursuit of those professions, and

(b) to assist citizens in realising the rights conferred on them by these Regulations and the Directive, in cooperation, where appropriate, with other contact points and competent authorities.

(5) At the Commission's request, the national coordinator shall inform the Commission of the result of enquiries with which he is dealing pursuant to the provisions of paragraph (4) subparagraph (b) within two months of receiving them.

(6) The competent authorities shall provide all information necessary to assist citizens in realising the rights conferred on them under these Regulations and the Directive, and in responding to requests for information from the national co-ordinator.

(7) The national co-ordinator shall send a report to the Commission every two years showing a statistical summary of decisions taken and a description of the main problems arising from the application of these Regulations and the Directive.

27. Nothing in these Regulations or the Directive shall be construed as entitling a person who has, by virtue of a diploma awarded to him in the State, been authorised pursuant to the Directive to take up and pursue the relevant profession in another Member State to claim in the State any rights or status not conferred on him by the diploma, certificate, attestation of competence, or evidence of education and training.

#### *Administrative cooperation*

28. (1) The competent authorities of the State and of the home Member State shall work in close collaboration and shall provide mutual assistance in order to facilitate the application of these Regulations and the Directive. They shall ensure the appropriate confidentiality of the information which they exchange subject to community and national law.

(2) The competent authorities as listed in Schedules 1, 2 and 3 of these Regulations may ask the competent authorities of the Member State of establishment, for any provision of services, to provide any information relevant to the legality of the service provider's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature.

(3) Where it holds such information and has been requested to provide it by the competent authority of the State for the purposes of the Directive, the competent authorities of the Member State of establishment shall provide 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 these Regulations and the Directive, respecting personal data protection legislation provided for in Directives 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>6</sup> and 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)<sup>7</sup> A competent authority in the State shall provide similar information subject to the same conditions, where it is requested to do so by the competent authority in another Member State for the purposes of the Directive.

(4) The competent authorities shall ensure the exchange of all information necessary for complaints by a recipient of a service against a service provider to be correctly pursued. Recipients shall be informed of the outcome of the complaint.

29. Section 3 of the Legal Practitioners (Qualification) Act 1929 (No. 16 of 1929) shall not apply to an applicant to whom Regulation 5 applies.

Section 24 of the Solicitors Act 1954 (No. 36 of 1954) and regulations under Section 40 of that Act shall not apply to an applicant to whom Regulation 5 applies.

30. The following regulations are revoked:

The European Communities (General System for the Recognition of Higher Education Diplomas) Regulations 1991 (S.I. No. 1 of 1991), and

The European Communities (Second General System for the Recognition of Professional Education and Training) Regulations 1996 (S.I. No. 135 of 1996), and

The European Communities (Recognition of Qualifications and Experience) Regulations 2003 (S.I. No. 372 of 2003), and

<sup>6</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003.

<sup>7</sup> OJ L 201, 31.07.2002, p. 37

The European Communities (General System for the Recognition of Higher Education Diplomas and Professional Education and Training and Second General System for the Recognition of Professional Education and Training) (Amendment) Regulations 2003 (S.I. No. 36 of 2004)

The European Communities (transport Auxiliaries) Regulations 1988 (S.I. No. 18 of 1988) and The European Communities (right of Establishment and Freedom to provide Services in Hairdressing) Regulations 1992 (S.I. No. 315 of 1992.)

## SCHEDULE 1

REGULATED PROFESSIONS AND PROFESSIONAL ACTIVITIES IN THE STATE WHICH ARE  
REGULATED BY LAW.

(1) Professions and Professional activities	(2) Designated Authorities
Aircraft Maintenance Engineer	Irish Aviation Authority
Architect	Royal Institute of the Architects of Ireland
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 Surveyor Quantity Surveyor	Society of Chartered Surveyors
<p data-bbox="248 1136 691 1209"><i>The following activities in construction are subject to the possession of a SafePass Certificate and a certificate of competence.</i></p> <p data-bbox="248 1230 691 1776">180 Degree Excavator 360 Degree Excavator Articulated Dumper Built-up Roof Felting — Bituminous Built-up Roof Felting — Single Ply Concreting Crawler Crane Locating Underground Services Mini Digger Mobile Access Tower Scaffold Mobile Crane Paving/Kerb laying Roof and Wall Sheeting/Cladding Scaffolding Advanced Scaffolding basic Self-Erect Tower Crane Shot Firing Signing, lighting and Guarding on Roads Site Dumper Slinger Signaller Telescopic Handler Tower Crane Tractor Dozer</p>	Foras Áiseanna Saothair Training and Employment Authority

(1) Professions and Professional activities	(2) Designated Authorities
Analytical Chemist <sup>8</sup> Audiologist <sup>8</sup> Clinical Biochemist <sup>8</sup> Dietitian <sup>8</sup> Environmental Health Officer <sup>8</sup> Occupational Therapist <sup>8</sup> Orthoptist <sup>8</sup> Podiatrist <sup>8</sup> Psychologist <sup>8</sup> Diagnostic Radiographer <sup>8</sup> Radiation therapist <sup>8</sup> Speech and Language Therapist <sup>8</sup>	Minister for Health
Advanced Paramedic Emergency Medical Technician Paramedic	The Pre-Hospital Emergency Care Council
Primary School Teacher <sup>8</sup> Post-Primary School Teacher <sup>8</sup> — Voluntary Secondary School Teacher — Community and Comprehensive School Teacher — Vocational School Teacher	The Teaching Council of Ireland
<i>Deck Officers (Merchant Marine)</i> Master Mariner STCW Reg ii/2 Chief Mate STCW Reg ii/2 Officer in Charge of a Navigational Watch STCW Reg ii/1  <i>Deck Officers (Fishing Fleet)</i> Deck Officer Skipper Full Deck Officer Skipper Limited Deck Officer Second Hand Full Deck Officer Second Hand Limiter (F.V.) Deck Officer Second Hand Special (F.V.)  <i>Engineer Officers (Merchant Marine)</i> Chief Engineer Officer STCW Reg iii/2 Second Engineer Officer STCW Reg iii/2 Engineer Officer of the watch STCW Reg iii/1 Chief Engineer Officer STCW Reg iii/3 Second Engineer Officer STCW Reg iii/3 Engine Room watch rating STCW Reg iii/4 Marine Engine Operator  <i>Engineer Officers (fishing fleet)</i> Engineer Officer Class 1 (F.V.) Engineer Officer Class 2 (FC) Engineer Officer Class 3 (FC)  Master of Passenger Vessels Master of Passenger Boats	Marine Survey Office acting with the approval of the Minister of Transport
Dentist/Dental Practitioner Dental Hygienist	The Dental Council
Dispensing Optician Optometrist	The Opticians Board
Doctor/Medical Practitioner	The Medical Council

<sup>8</sup> Regulated for the purposes of access to public sector employment only

(1) Professions and Professional activities	(2) Designated Authorities
Door Supervisor Security Guard	The Private Security Authority
Intruder Alarm Installation Alarm Monitoring	The Private Security Authority
Inspector of Air Accidents	Air Accident Investigation Unit acting with the approval of the Minister of Transport
Medical Scientist <sup>8</sup>	The Academy of Medical Laboratory Science
Patent Agent Trade Mark Agent	Controller of Patents, Designs and Trademarks
Registered Pharmacist Registered Druggist	Pharmaceutical Society of Ireland
Physiotherapist <sup>8</sup>	Irish Society of Chartered Physiotherapists
Registered Midwife Registered Psychiatric Nurse Registered Children's Nurse Registered Nurse Intellectual Disability Registered Public Health Nurse Registered Nurse Tutor Registered General Nurse	An Bord Altranais
Ships Radio Officer	Maritime Survey Office acting with the approval of the Minister of Transport
Social Worker	National Social Work Qualifications Board
Solicitor	Law Society of Ireland
Veterinary Practitioner Veterinary Surgeon Veterinary Specialist Veterinarian Veterinary Nurse <sup>9</sup>	Veterinary Council of Ireland

<sup>9</sup> From 01 July 2008 in accordance with the Veterinary Practice Act, 2005

## SCHEDULE 2

PROFESSIONS AND PROFESSIONAL ACTIVITIES REGULATED BY PROFESSIONAL BODIES  
WHICH ARE RECOGNISED IN A SPECIAL FORM BY THE STATE.

(1) Professions	(2) Abbreviatory Letters	(3) Designated Authorities
Accounting Technician	ICAI  CAT	The Institute of Chartered Accountants in Ireland  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 <sup>10</sup>
Certified Public Accountant	ICPAI	The Institute of Certified Public Accountants in Ireland <sup>10</sup>
Chartered Accountant	ICAI, FCA	The Institute of Chartered Accountants in Ireland <sup>10</sup>
Chartered Town Planner	MRTPI	Royal Town Planning Institute Irish Branch, Southern Section
Chemist	LICI, MICI	Institute of Chemistry of Ireland
Incorporated Public Accountant	IIPA	Institute of Incorporated Public Accountants
Tax Consultant	AITI	Irish Taxation Institute
Technician Accountant	ICPAI	The Institute of Certified Public Accountants in Ireland
Town Planner/Spatial Planner	MIPI	Irish Planning Institute

<sup>10</sup> Only for the activity of auditing accounts.

## SCHEDULE 3

PROFESSIONS AND PROFESSIONAL ACTIVITIES WHERE THE COMPETENT AUTHORITIES  
MAY STIPULATE EITHER AN ADAPTATION PERIOD OR AN APTITUDE TEST.

(1) Professions and Professional activities	(2) Applicable Section
Doctor/Medical Practitioner with basic training Specialised Doctor/Medical Practitioner (Annex V of the Directive) Nurses Responsible for general care Dentists/Dental Practitioners Specialised Dentists/Dental Practitioners Veterinary Surgeons Midwives Pharmacists Architects Veterinary Nurses	Regulation 8(3)(b)  <i>Where the applicant does not meet the requirements for automatic recognition under the harmonised conditions set out in Articles 21-49 of the Directive</i>
Accounting technician Auditing company accounts Auditing Company Accounts Public Barrister Certified Accountant Certified Public Accountant Chartered Accountant Patent Agent Solicitor Tax Consultant Technician Accountant Trade Mark Agent	Regulation 8(3)(a)  <i>Provision of aptitude test where pursuit of profession requires precise knowledge of National Law and in respect of which the provision of advice and/or assistance concerning national law is an essential and consistent part of the activity</i>

## SCHEDULE 4

PROFESSIONS AND PROFESSIONAL ACTIVITIES IN THE HEALTH, SOCIAL CARE AND  
VETERINARY SECTORS WHICH MAY BE SUBJECT TO A PRIOR CHECK UNDER  
REGULATION 17(3)

Specialisms in the Health, Social Care and Veterinary professions which are not eligible for Automatic Recognition under Articles 21 to 45 of the Directive

Advanced Paramedic  
Analytical Chemist  
Audiologist  
Chemist  
Clinical Biochemist  
Dietitian  
Dispensing Optician  
Doctor/Medical Practitioner  
Emergency Medical Technician  
Environmental Health Officer  
Medical Physicist  
Medical Scientist  
Occupational Therapist  
Optometrist  
Orthoptist  
Paramedic  
Pharmacist  
Physiotherapist  
Podiatrist  
Psychologist  
Diagnostic Radiographer  
Radiation Therapist  
Social Worker  
Speech and Language Therapist  
Veterinary Nurse  
Veterinary Practitioner  
Registered Midwife  
Registered Psychiatric Nurse  
Registered Children's Nurse  
Registered Nurse Intellectual Disability  
Registered Public Health Nurse  
Registered Nurse Tutor  
Registered General Nurse.



GIVEN under my Official Seal,  
6 May 2008

MARY HANAFIN  
Minister for Education and Science.

## EXPLANATORY NOTE

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

These Regulations transpose Directive 2005/36/EC of the European Parliament and of the Council as updated by 2006/100/EC in respect of professional qualifications in Bulgaria and Romania as regards the general regime for mutual recognition of professional qualifications obtained in another Member State of the European Union, or, in certain cases, in a Third Country, by professions which are regulated in the State and which are not subject to automatic recognition under the harmonised training conditions for doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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