



Department
for Business
Innovation & Skills

**TRANSPOSITION OF THE REVISED
MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
DIRECTIVE 2005/36/EC**

CONSULTATION

14 AUGUST 2014

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Transposition of the Mutual Recognition of Professional Qualifications Directive

This consultation relates to the method of implementation of the revised Directive on the Recognition of Professional Qualifications. The text has been agreed and will generally be copied out from the Directive. It addresses the provisions that apply to the recognition of qualifications under the general system of recognition. The provisions relating to the automatic recognition of qualifications in the sectoral professions under the Directive (doctor, nurse, dental practitioner, veterinary surgeon, midwife, pharmacist and architect) are the responsibility of other Government Departments and separate consultations will be carried out in relation to these provisions. We would like to hear the views from stakeholders directly affected by the provisions of the Directive.

The Directive (known as the Mutual Recognition of Professional Qualifications Directive (PQD)) is primarily concerned with the free movement of persons (one of the four fundamental freedoms of the European Union) and is intended to allow individual professionals to market their skills in other Member States on a temporary or established basis. The revision of the PQD is an EU Single Market Act priority designed to facilitate greater mobility of professionals across the EU through a more efficient and transparent recognition of professional qualifications. This will benefit individual professionals who have greater freedoms, but also business, consumers and the EU as a whole.

Reducing barriers to the mobility of qualified professions will allow Member States to fill any skills gaps in their labour markets and gives businesses the freedom to choose the best candidate for a role, regardless of borders. Consumers may benefit from greater competition and, thus, lower prices and higher quality services. More widely, this is also expected to have a positive impact on employment and enhance economic growth, especially since professional services are a significant contributor to the GDP of the European Union, amounting to around 9%.¹

The recent revision of the PQD involves changes to current mutual recognition processes and procedures, with a particular focus on using modern technologies to support the mutual assistance of Member States. The UK has an obligation to transpose this into UK law and ensure compliance by 18 January 2016.

Some of the new proposals set out in the revised PQD and explained in this consultation are provisional on the Commission adopting implementing acts or delegated acts to apply them, in some cases, to specified professions. This poses a challenge in terms of implementation. Historically, we would know specifically what was required when the final text was agreed and could consult on that basis. The procedural changes introduced as a result of the Lisbon

¹ Communication on evaluating national regulations on access to professions (see: http://ec.europa.eu/internal_market/qualifications/docs/policy_developments/131002_communication_en.pdf)

Agreement now mean that it is increasingly likely that, in order to meet transposition deadlines, we have to consult before we know the specific requirements for transposition. In these cases, we would ask that interested parties provide details of particular concerns that the government should be aware of when discussing implementing or delegated acts with the Commission and other member states. The government will consult again in 2015 on the text of the draft UK implementing regulations which will contain details of any implementing acts adopted after this consultation.

The Department for Business Innovation and Skills (BIS) would like to consult interested persons including Competent Authorities, Professional Bodies and qualified professionals seeking to work in a different Member State from the one in which they gained their qualification.

The purpose of this consultation is to find out the views of those affected by *how* we implement. We will endeavour to use the information to provide better guidance and address any concerns. It will also help guide our stance during discussions on the various implementing acts.

Issued: **14 August 2014**

Respond by: **6 November 2014**

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1. Foreword from Minister



By 2020, there will be 16 million more jobs in the EU requiring highly skilled professionals.² To meet this demand, it is essential that the mechanism to recognise qualifications of mobile professionals is fast and effective.

The introduction of the original Mutual Recognition of Professional Qualifications Directive (PQD) made it easier for skilled professionals to move around Europe. This benefitted the UK, by giving us greater access to a skilled labour market and by allowing UK residents more freedom to pursue their chosen careers across the EU.

The recent revision of the PQD has introduced important changes that should speed up the process and bring in important safeguards. Taken together, these amendments will make it easier and safer for qualified professionals to move freely across Europe — spurring greater knowledge exchange and providing skills and services where they are most needed.

The movement of professionals is an essential element of the Single Market. Ensuring that the market works smoothly benefits UK businesses and customers who gain from increased competition in the marketplace.

A handwritten signature in black ink that reads "Livingstone of Parkhead".

**LORD LIVINGSTON
OF PARKHEAD**

² European Commission memo, 'Modernisation of the Professional Qualifications Directive – frequently asked questions', 9 October 2013, p. 3

2. Executive Summary

The PQD is one of the main tools to facilitate the free movement of persons and is intended to allow individual professionals to market their skills in other Member States on a temporary or established basis. It directly contributes to economic growth by enabling businesses, the public sector and consumers to access the professional services they require more readily and more economically by encouraging stronger competition for professional services. There are also indirect benefits for the UK economy through UK professionals working overseas, gaining wider experience and skills.

The PQD provides two mechanisms for recognising a qualification when a professional gained such a qualification in one Member State and intends to practice in another:

- The **Automatic Recognition** procedure is limited to seven professions (doctors, nurses, midwives, dentists, architects, vets, and pharmacists), referred to as the sectoral professions, and based on the minimum training requirements that have been agreed in advance and are listed in the Directive.
- The **General System** is based on a case-by-case assessment of professional qualifications; teachers, engineers, and the majority of other professions would fall under this category. In the case of certain professions in crafts, commerce and industry, recognition is based on professional experience.

The revised PQD and its intention to greater facilitate the mobility of regulated professionals across the EU is one of the 'twelve levers to boost growth and strengthen confidence' set out by the Single Market Act.³

The main cross-cutting elements of the revision, which are explained in further detail in this consultation, are:

- The European Professional Card (Articles 4a – 4d)
- Partial access (Article 4f)
- Temporary service provision (Articles 7, 8)
- Conditions for recognition (article 13)
- Recognition of professional traineeships (article 55a)
- Compensation measures (article 14)
- Putting administrative procedures online (articles 50, 57, 57a)
- Exchange of information (Article 56)
- Alert mechanism (Article 56a)
- Transparency initiative (Article 59)
- Automatic recognition on the basis of common training principles (Articles 49a-49b)

³ Communication on the Single Market Act – 'Twelve levers to boost growth and strengthen confidence - "Working together to create new growth"' COM(2011) 206 final (see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0206:FIN:EN:PDF>)

The revisions focus primarily on using modern technologies to make the movement of regulated professionals easier and to streamline the recognition process.

Other amendments involve changes and clarifications to pre-existing provisions designed to make the Directive more effective.

This consultation will explain the practicalities of these amendments and their likely effects on professionals and regulating bodies. We are seeking views on the proposed implementation of the amendments and will seek to address these in our guidance. For a number of these amendments, for example the European Professional Card, the Commission will adopt implementing acts to specify further details. We will use the information gathered by this consultation to guide our position during discussions of these.

The PQD, implementing Regulations, the European Communities (Recognition of Professional Qualifications) and Regulations 2007 (the 2007 Regulations) set out comprehensive lists of regulated professions in the UK and details of training for specialisations within the sectoral professions. We will use this consultation to review these lists to ensure they are up to date.

The transposition deadline is 18 January 2016. We are therefore consulting now to collect any views on implementation and will run another, shorter, consultation in 2015 to seek views on the draft regulations implementing the revised Directive. A timetable of the transposition process is attached at Annex III. This consultation will run for a total 12 weeks, closing on 6 November 2014, in order to give interested parties sufficient time to provide their views.

The Department of Health (DH) and Department of Environment, Food and Rural Affairs (DEFRA) will also be running consultations on how this Directive specifically affects the Health Professions and Veterinarians, respectively.

The PQD covers the whole of the United Kingdom. The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses. Please state whether parts or all of your responses are confidential (although please be aware we may not be able to guarantee confidentiality).

A draft impact assessment has been produced on the effect of these amendments. This can be found on the consultation page:

<https://www.gov.uk/government/consultations/mutual-recognition-of-professional-qualifications-revised-directive>

A final impact assessment will be produced and validated in light of any further evidence received from the consultation.

2. Consultation questions

The consultation questions are listed below for ease of reference so that consultees can get an overview of what information is sought and can refer to them quickly.

The questions in italics are from the draft Impact Assessment.

General

1. Do you agree with our proposal to revoke and replace the current 2007 Regulations rather than amend them?

European Professional Card (article 4a – 4d)

As mentioned previously, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the EPC. With this in mind, we have the following questions:

2. Do you have any suggestions for professions that should be included in the EPC?
3. Within the scope of article 4a.7 of the Directive relating to the power to adopt an implementing act, can you suggest any issues that we should be conscious of with regards to the EPC?
4. *Do Competent Authorities expect the EPC to deliver any cost savings from the transfer of responsibility for checking qualifications to home Member States? Please provide any detail possible on the expected cost implications of the EPC for your authority.*

Partial Access (Article 4f):

5. Bearing in mind the requirements for partial access set out in the Directive (article 4f.1), which professions do you consider eligible for partial access and why?
6. Do you think that we should require applicants who wish to access a profession on a partial basis to do so using the title for that profession in English rather than the professional title of their own state? Is the answer different in relation to different professions?
7. *Are Competent Authorities able to provide any estimate of the cost of addressing an individual partial access case as well as any costs associated with changes (such as IT systems) to their registers to accommodate partial access?*

Temporary service of provisions (articles 7, 8):

8. Do the new requirements for temporary provision require clarification?
9. In relation to the option to require a language declaration in relation to professions with safety implication, which professions do you think fall within this description?
10. *Do any Competent Authorities anticipate additional costs incurred from the temporary service provision amendments?*

Conditions for recognition (article 13):

11. Are the conditions for recognition sufficiently clear?

Compensation measures (article 14):

12. Although the applicant has the right to choose, Members States' can stipulate, by way of derogation, an adaptation period or aptitude test. Do you think there is a case, in relation to a profession, for expanding the category of cases where we may stipulate either an aptitude period or adaptation test as set out in Article 14.3? If so, please provide reasons for this.

13. *Does applying a compensation measure raise the administrative costs of processing an application?*

Automatic recognition on the basis of common training principles (articles 49a-b):

These principles are subject to delegated acts adopted by the Commission. Therefore we are interested in your views in general terms only at this stage.

14. Is the provision for setting up common training principles/frameworks of interest to your profession?

15. Do you consider your profession to be outside the scope of a CTF or CTT and why?

16. *Do Competent Authorities expect common frameworks and tests to reduce administrative costs in processing PQD applications?*

Recognition of professional traineeship (article 55a)

17. What limits to the duration of professional traineeships should be set, if any, in relation to a relevant profession. ?

18. Are there any current guidelines on organisation and recognition of professional traineeships?

Access to information (articles 50.3, 57, 57a):

19. Are your procedures already available online?

20. Do you accept electronic payments?

21. Is your Competent Authority already linked in to the PSC?

22. *Are Competent Authorities able to provide any information about the expected costs and time taken to make available information through the Points of Single Contact?*

23. *Do any Competent Authorities expect substantive costs to arise from providing electronic application processes? Could you please specify expected costs?*

24. *Do Competent Authorities who have switched to online application systems have any information on the impact this may have had on number of applications?*

Exchange of Information (article 56)

25. Are you aware of IMI?

26. Are you registered with IMI?

27. If you are already registered on IMI:
 - a. do you find the system easy to use
 - b. do you find the information exchanged useful
28. Do you consider you should be designated as a coordinator? Please provide reasons.
29. *Are affected Competent Authorities able to provide more information on how many additional staff may need to use IMI for the alert mechanism and the potential on-going costs of using the system?*

Alert Mechanism (article 56a):

As with the EPC, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the Alert Mechanism. With this in mind, we have the following questions:

30. Within the scope of the implementing act (article 56a.8), can you suggest any issues that we should be conscious of with regards to the Alert Mechanism including:
 - Eligible authorities or coordinators
 - Procedures on treatment of alerts
 - Security of processing alerts?

Transparency initiative (article 59):

31. Do you have any views on the most effective exercise of the transparency process?
32. Do you know of any Chartered Bodies that should be either removed or added from Annex I? Please give reasons for your answer.
33. Do you know of any regulated professions that should either be removed or added from Schedule I? Please give reasons for your answer
34. Has your Competent Authority updated the information on the database (A request to complete the 'Proportionality' tab was sent on 18 July 2014)?

Please find the response form at Annex V to this document.

4. How to respond

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

You can reply to this consultation online at <https://www.surveymonkey.com/s/8HG85B3>.

The consultation response form is attached at Annex V to this document and is available electronically on the consultation page. The form can be submitted online/by email or by letter or fax to:

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A list of those organisations and individuals consulted is in Annex IV. We would welcome suggestions of others who may wish to be involved in this consultation process.

You may make printed copies of this document without seeking permission.

BIS consultations are digital by default but if required printed copies of the consultation document can be obtained from:

BIS Publications Orderline
ADMAIL 528
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<https://www.gov.uk/government/publications?departments%5B%5D=department-for-business-innovation-skills>

Other versions of the document in Braille, other languages or audio-cassette are available on request.

5. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

6. Help with queries

Questions about the policy issues raised in the document can be addressed to:

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The consultation principles are in Annex I.

7. The Proposals

Please find the text of the Directive referred to in this consultation [here](#).

The European Professional Card (Articles 4a – 4d)

The revised PQD focuses on using modern technologies to speed up and streamline recognition procedures, thereby enabling the free movement of skilled professionals within a constantly evolving EU labour market. This involves the introduction of a European Professional Card (EPC) for particular professions. The main aims of the EPC are to expedite the recognition of qualifications of interested professionals and to alleviate the administrative and financial burdens on the individual. Although this is an option available to a professional, they may use the traditional methods of application if preferred.

The Commission, by means of an implementing act, will make the EPC available to certain professions under the following criteria. There should be:

- a) Pre-existing, or the potential for, significant mobility of the profession;
- b) Sufficient interest expressed by the relevant stakeholders;
- c) Regulation or education and training for the pursuit of the profession concerned within a significant number of Member States.

The EPC will be linked to the existing Internal Market Information System (IMI)⁴ and will take the form of an electronic certificate, rather than a physical card which could be falsified or become obsolete. Competent Authorities in differing Member States will be able to use it to share information regarding an applicant more easily, potentially removing some of the administrative and financial burdens from the individual applicant. The deadlines for recognition have been shortened to 1 month for automatic recognition and 2 months for the general system of recognition. It also introduces the provision of tacit consent, whereby in the absence of a decision within the deadline, the card is automatically validated and the professional qualification recognised. We should make clear that this does not necessarily mean that the professional then has unfettered access to the profession.

The EPC can be used by professionals to provide services in a range of Member States on a temporary or occasional basis, or to establish themselves in another Member State on a more permanent basis.

The home member state is responsible for issuing the EPC for temporary and occasional provision of services other than those covered by article 7.4⁵ and its decision must be subject

⁴ IMI is an electronic, web based portal developed by the European Commission, which identifies regulators in all of the EEA states. It enables messages and information to be exchanged and translated in a secure environment, and complies with data protection rules. This facility is only open to competent authorities who regulate in a specific area and any information that is exchanged is only visible to the authorities involved.

⁵ Article 7.4 covers regulated professions that have public health or safety implications which do not benefit from automatic recognition by way of professional experience under Chapter II, coordination of minimum training conditions under Chapter III and on the basis of common training principles under Chapter IIIA

to appeal in the home courts. The host Member State is responsible for issuing the EPC in cases covered by article 7.4 and for establishment. It may refuse to issue the card if it does not receive the necessary information it requires in accordance with the Directive for taking a decision, from either the home Member State or the applicant. This decision must be duly justified. The Directive also stipulates that the host Member State will have the option to extend the deadline by two weeks when it is strictly necessary, in particular for reasons relating to public health or safety.

The European Commission will have to adopt an implementing act to bring the EPC into force for the chosen professions. A decision has not yet been reached on the introduction of the EPC for a particular profession. The Commission ran a call for expressions of interest for the card and discussions have been on-going between all Member States. There has been general agreement on introducing the card in two waves, the first to be in place by the end of the transposition period and the second to run in 2018. The Commission has proposed the following professions for the first wave:

- Nurses responsible for general care
- Pharmacists
- Physiotherapists
- Mountain guides
- Real estate agents

These are not yet confirmed and discussions will continue in the autumn. This list also does not preclude other professions being considered by the European Commission at a later date. The Commission has proposed that the implementing act will be adopted by the end of 2014 and provisions in each Member State must be made so that the EPC is available for the chosen professions by the end of the transposition period for the revised Directive.

Questions:

As mentioned previously, the specifics of implementation are difficult to address at this stage as we are awaiting the implementing act for the EPC. With this in mind, we have the following questions:

- Do you have any suggestions for professions that should be included in the EPC?
- Within the scope of article 4a.7 of the Directive relating to the power to adopt an implementing act, can you suggest any issues that we should be conscious of with regards to the EPC?

Questions from the Impact Assessment:

- Do Competent Authorities expect the EPC to deliver any cost savings from the transfer of responsibility for checking qualifications to home Member States? Please provide any detail possible on the expected cost implications of the EPC for your authority.

Partial Access (Article 4f)

The principle of partial access, in effect, will allow a professional who is qualified in their home Member State to practise a subset of a regulated profession's activities in another Member State without having to gain qualifications or recognition for practising the broader profession. This is subject to the following conditions:

- The professional is fully qualified in his home member state,
- The differences between the professional activities in home and host member state are so wide that compensation measures would be necessary to have access to the full profession in the host state and
- That the professional activity can objectively be separable from other activities of the regulated profession in the host state.

Although it has already been established by a judgement of the EU Court of Justice⁶, the inclusion of recognition for partial access to a profession within the Directive gives further guidance to Competent Authorities and professionals.

The Directive stipulates that partial access be applied by Competent Authorities on a case-by-case basis and will not be applicable to those sectoral professions that are eligible for automatic recognition. The Directive also allows Competent Authorities to reject applications for partial access if it can be justified by overriding reasons of general interest.

Questions:

- Bearing in mind the requirements for partial access set out in the Directive (article 4f.1), which professions do you consider eligible for partial access and why?
- Do you think that we should require applicants who wish to access a profession on a partial basis to do so using the UK title for that profession in English rather than the professional title of their own state? Is the answer different in relation to different professions?

Questions from the Impact Assessment:

- Are Competent Authorities able to provide any estimate of how much more complex partial access cases may be compared to normal cases?
- Can Competence Authorities provide any estimate of how partial access may affect the typical cost of processing an application?
- Are Competent Authorities able to provide an estimate of the cost of any IT changes that may be required to their registers to accommodate partial access?

⁶ EU court judgement Case C-330/03

Temporary service provision (Articles 7, 8)

Temporary service provision is not a new principle of the PQD. The original Directive prescribed that if a professional legally established in a Member State (i.e. qualified to exercise that profession in the state or with recent professional experience where the profession is unregulated) intends to work or provide services in another Member State on a temporary or occasional basis, they may do so without a prior check of his qualifications providing there are no public health or safety implications. There are separate provisions relating to professions with public health or safety implications. Member States are able to collect information on the status of temporary workers via an annual declaration to be made in advance of the provision of services.

However, the modernised Directive includes a number of small amendments which intend to make temporary mobility easier for the professional and give greater guidance to Competent Authorities in host Member States. These include:

- The requirements for recognition of temporary service provision for professionals who come from a Member State which does not regulate the profession have been reduced from two years of professional experience to one (Article 7 (2d))
- The decision to recognise a qualification on a temporary basis should now entitle the professional to exercise that activity over the entire territory of the host Member State (Article 7 (2a))
- Clarification of the documents required and the procedural steps to be taken (Art 7 (4)), as well as a definition of the requirements for Competent Authorities to request additional information from the applicant (Art 8)
- New deadlines for Competent Authorities to ask for missing documents or inform the applicant of their decision. (Article 7 (4))
- In cases of professions with patient safety implications, a declaration about language knowledge.

Questions:

- Do the new requirements for temporary provision require clarification?
- In relation to the option to require a language declaration in relation to professions with safety implication, which professions do you think fall within this description?

Questions from the Impact Assessment:

- Do any Competent Authorities anticipate additional costs incurred from the temporary service provision amendments?

Conditions for recognition (Article 13)

Article 11 of the Directive lays out five different levels of qualifications. In the original PQD, Competent Authorities in host Member States were able to reject applicants under the general system of recognition where qualifications were more than one level lower than the qualification required in the host Member State.

The revised PQD has removed this provision, stipulating that Competent Authorities may refuse access where the applicants' qualification falls under category (a) of Article 11 (the lowest level specified - generally qualifications at a secondary or primary level or not covered in other categories) and the host Member State national requirements for professional qualification falls under category (e) (the highest level of qualification specified - post-secondary for at least 4 years with any necessary training).

In instances where the applicant's profession is not regulated in their home Member State, access to the profession in a host Member State should be granted if the applicant has pursued the profession for a period of at least one year during the previous ten years and has an attestation of competence or evidence of formal qualifications issued by that state.

On balance, given the UK's relatively low levels of regulation, this is more likely to affect UK professionals looking to work in other member states.

This does not remove the option for compensation measures which can be imposed in order to bring the applicants knowledge up to the level of the national requirements of the host Member State. These will be discussed further in the following section.

Questions:

- Are the conditions for recognition sufficiently clear?

Compensation measures (Article 14)

The revised PQD provides for a host Member State to require compensation measures to be taken to ensure that any gap in an applicants' knowledge or education, relative to that required for practice of a regulated profession in the host member state, can be supplemented where:

- The training received by the applicant covers substantially different matters than those covered by the evidence of formal qualifications in the host member state.
- The regulated profession in the host member state includes one or more regulated professional activities which do not exist in the regulated profession in the applicant's home state and the training required covers substantially different matters than those covered by the applicant's qualifications.

This can take the form of an aptitude test or adaptation period of up to 3 years. Although this does not apply to sectoral professions recognised under the automatic system, any professional who cannot be recognised through this automatic recognition process, including

specialisations of such sectoral professions, may be subject to compensation measures under the general system of recognition.

The choice of aptitude test or adaptation period is largely that of the professional, although a Member State may, by way of derogation, stipulate one or the other, or both. The situations where this may be possible are as set out in article 14.3

Member states are required to ensure that an aptitude test is available to an applicant within six months after the decision to impose one.

Questions:

- Although the applicant has the right to choose, Members States' can stipulate, by way of derogation, an adaptation period or aptitude test as explained above. Do you think there is a case, in relation to a profession, for we should expanding the category of cases where we may stipulate either an aptitude period or adaptation test as set out in Article 14. (3)? If so, please provide reasons for this.

Questions from the Impact Assessment:

- Does applying a compensation measure raise the administrative costs of processing an application?

Recognition of professional traineeships (Article 55a)

This new provision requires home member states competent authorities to recognise professional traineeships carried out in other MS as described where access to a regulated profession depends on completion of such traineeship. However this does not restrict any requirement to pass an examination to access the profession in the home member state and limits may be set to duration of such traineeships carried out abroad.

Questions:

- What limits to the duration of professional traineeships should be set, if any, in relation to a relevant profession.
- Are there any current guidelines on organisation and recognition of professional traineeships?

Automatic recognition on the basis of common training principles (Articles 49a – 49b)

The revised PQD introduces the principles of ‘common training frameworks’ and ‘common training tests’ in order to create a new avenue to automatic recognition. A common training framework (CTF) or common training test (CTT) could be set up subject to the criteria set out in article 49a.2 and 49b.2. This includes the requirement that the profession concerned or the education or training required for access to the profession is regulated in at least one third of Member States and only when it ‘enables more professionals to move across Member States’.

While this option does not apply to sectoral professions already benefitting from automatic recognition, it could be used for any *new* specialities of sectoral professions.

This provision is subject to the Commission adopting a delegated act. The Directive also allows Member States, subject to a Commission decision, to opt out of any adopted CTT or CTF subject to conditions in article 49a.5 and 49b.5

Questions:

- Is the provision for setting up common training principles/frameworks of interest to your profession?
- Do you consider your profession to be outside the scope of a CTF or CTT and why?

Questions from the Impact Assessment:

- Do Competent Authorities expect common frameworks and tests to reduce administrative costs in processing PQD applications?

Access to information (Articles 57, 57a and 57b)

Part of the revised Directive’s focus on utilising modern technologies is the requirement to put administrative procedures online.

Article 57a states that all required procedures and formalities are easily completed by electronic means, either through the Point of Single Contact (PSC) or Competent Authority. This does not apply to compensation measures or other post-recognition procedures e.g. language checks.

Article 57 requires Member States to make relevant information about the recognition of qualifications available through the PSC, already set-up by the Services Directive.⁷ The

⁷ Points of Single Contact were established in the EU Services Directive. They were established as e-government portals for entrepreneurs in the services sector. The PSCs currently provide information on the rules and regulations applicable to services and allow for entrepreneurs to complete administrative procedures online.

information to be made available through the PSC should include a list of all regulated professions in a Member State, including the contact details of the relevant Competent Authorities. The PSC will also hold information on the EPC, the professions it is available for and the related fees, as well as information on the other Member States' systems for recognition and the documents required.

Article 57b requires Member States to set up assistance centres to provide assistance on the recognition of professional qualifications, including national legislation on such qualifications. These centres are required to cooperate with those in other Member States. UK NARIC (National Recognition Information Centre), currently the official source of information on international education, training systems and qualifications, will now be the UK's Assistance Centre.

Questions:

- Are your procedures already available online?
- Do you accept electronic payments?
- Is your Competent Authority already linked in to the PSC?

Questions from the Impact Assessment:

- Are Competent Authorities able to provide any information about the expected costs and time taken to transfer information to Points of Single Contact?
- Do any Competent Authorities expect substantive costs to arise from providing electronic application processes
- Do Competent Authorities who have switched to online application systems have any information on the impact this may have had on number of applications?

Exchange of information – IMI (Article 50.3 & 56.2a)

Article 56 of the previous Directive specified that Competent Authorities in the host and home Member States “shall work in close collaboration and shall provide mutual assistance”. To support this, the revised Directive has included the provision that Competent Authorities shall use IMI⁸ to exchange information, specifically relating to any disciplinary or criminal sanctions taken against professionals. Article 50 also requires that Competent Authorities provide mutual assistance and exchange information with Competent Authorities in other Member States via IMI.

⁸ IMI is an electronic, web based portal developed by the European Commission, which identifies regulators in all of the EEA states. It enables messages and information to be exchanged and translated in a secure environment, and complies with data protection rules. This facility is only open to competent authorities who regulate in a specific area and any information that is exchanged is only visible to the authorities involved.

Changes to IMI regulation and the revision of the Directive essentially mean that IMI will become an obligatory tool for the exchange of information between Competent Authorities across EU for the purposes of the PQD. IMI was set up in 2008 as a single information system to support cooperation between Competent Authorities in relations to the recognition of Professional Qualifications. The Majority of Competent Authorities are, therefore, already registered with IMI and use it on a regular basis to exchange information, however this amendment will mean that the list may need to be updated and some additional Competent Authorities may need to be registered.

Questions:

- Are you aware of IMI?
- Are you registered with IMI?
- If you are already registered on IMI:
 - do you find the system easy to use
 - do you find the information exchanged useful
- Do you consider you should be designated as a coordinator? Please provide reasons.

Please be aware that we will be circulating guidance over the summer on how to register and use IMI effectively.

Questions from the Impact Assessment:

- Are affected Competent Authorities able to provide more information on how many additional staff may need to use IMI and the potential on-going costs of using the system?

Alert mechanism (Article 56a)

This provision, along with the exchange of information described in the previous section, will provide Competent Authorities in host Member States with a faster and more reliable mechanism for identifying professionals who have been prohibited from practising in another member state. This should lead to greater security and protection for service recipients.

The introduction of an alert mechanism in the revised PQD applies to the sectoral professions (except architects), those with patient safety implications or those involved in the education of minors including childcare and early childhood education that are regulated in a member state.

The mechanism requires that all Competent Authorities notify, via IMI, their counterparts in other Member States of any professional who has been restricted or prohibited from practising, even on a temporary basis. This also applies to professionals who have applied for recognition using falsified documents.

The provision gives clear timelines for the alert and requires Member States to inform the professional concerned of the decision their right of appeal. This provision is designed to work in tandem with the Professional Card.

The application of this provision is subject to the Commission adopting an implementing act.

Questions:

As with the EPC, the specifics of implementation are difficult to address at this stage as we are awaiting adoption draft of an implementing act for the Alert Mechanism. With this in mind, we have the following questions:

- Within the scope of the implementing act, can you suggest any issues that we should be conscious of with regards to the Alert Mechanism including:
 - eligible authorities or coordinators
 - procedures on treatment of alerts
 - Security of processing alerts?

Transparency initiative (Article 59)

The revised PQD introduces a new mechanism intended to create greater transparency and ensure the regulation of professions is duly justified. The Directive applies to 740 categories of regulated professions across the EU. Although over half of these are within the Health or Education sector, where regulation is generally agreed to be necessary and justifiable in the interest of public safety, there is a considerable number which the Commission believes warrant greater examination.⁹

This has been made a priority matter and has had interest from both the European Council and European Parliament which has called on the Commission to conduct a 'rigorous peer review' and to 'identify where Member States are disproportionately blocking access'.^{10 11} This urgency has meant that the Transparency Exercise is already underway in the UK and most other Member States.

Member States are required to submit to the Commission a complete list of all existing regulated professions (including the activities reserved to that profession) and the justification for these. This is achieved through a publicly available database, set up and maintained by the Commission. A mutual evaluation will follow this, whereby Member States will discuss and compare their current regulatory frameworks and share best practise. The Commission will submit its findings to the European Parliament and the Council.

⁹ Communication on evaluating national regulations on access to professions, COM(2013) 676 final (see: http://ec.europa.eu/internal_market/qualifications/docs/policy_developments/131002_communication_en.pdf)

¹⁰ Report to the European Council, 27 - 28 June 2013 - 'The Compact for Growth and Jobs: one year on' (see: http://ec.europa.eu/europe2020/pdf/compact_en.pdf)

¹¹ Communication on evaluating national regulations on access to professions, COM(2013) 676 final (as above)

Although there are specific deadlines for these reports, this is expected to be an on-going process as Member States are required to update the Commission (and other Members States) every two years on any changes they have made to their requirements.

This process also requires that we take stock of the lists of regulated professions we originally supplied to the Commission and ensure that they continue to be relevant and comprehensive. A list of Chartered Bodies in the UK and Ireland is included in Annex I of the Directive, attached to this document as Annex II. As other Member States do not have a similar regulating system, inclusion on this list allows members of such bodies to benefit from the Directive. However it is worth considering whether this is still wanted or necessary for all Chartered bodies. Likewise, we are seeking to update the list of the UK's regulated professions listed in Schedule 1 of our 2007 regulations which can be found here:

<http://www.legislation.gov.uk/ukSI/2007/2781/schedule/1/made>

Questions:

- Do you have any views on the most effective exercise of the transparency process?
- Do you know of any Chartered Bodies that should be either removed or added from Annex I? Please give reasons for your answer.
- Do you know of any regulated professions that should either be removed or added from Schedule I? Please give reasons for your answer
- Has your Competent Authority updated the information on the database (A request to complete the 'Proportionality' tab was sent on 18 July 2014)?

8. What happens next?

A government response to this consultation will be published in December 2014. A timetable for the transposition can be found at Annex III to this document.

Annex I: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402
Or e-mail to: john.conway@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead (please see section 5 for the contact details).

Annex II: List of professional association or organisation fulfilling the conditions of Article 3(2) of the PQD

IRELAND:¹²

1. The Institute of Chartered Accountants in Ireland
2. The Institute of Certified Public Accountants in Ireland
3. The Association of Certified Accountants¹³
4. Institution of Engineers of Ireland
5. Irish Planning Institute

UNITED KINGDOM:

1. Institute of Chartered Accountants in England and Wales
2. Institute of Chartered Accountants of Scotland
3. Institute of Chartered Accountants in Ireland
4. Chartered Association of Certified Accountants
5. Chartered Institute of Loss Adjusters
6. Chartered Institute of Management Accountants
7. Institute of Chartered Secretaries and Administrators
8. Chartered Insurance Institute
9. Institute of Actuaries
10. Faculty of Actuaries
11. Chartered Institute of Bankers
12. Institute of Bankers in Scotland
13. Royal Institution of Chartered Surveyors
14. Royal Town Planning Institute
15. Chartered Society of Physiotherapy

¹² Irish nationals are also members of the following associations or organisations in the United Kingdom: Institute of Chartered Accountants in England and Wales Institute of Chartered Accountants of Scotland Institute of Actuaries Faculty of Actuaries The Chartered Institute of Management Accountants Institute of Chartered Secretaries and Administrators Royal Town Planning Institute Royal Institution of Chartered Surveyors Chartered Institute of Building.

16. Royal Society of Chemistry
17. British Psychological Society
18. Library Association
19. Institute of Chartered Foresters
20. Chartered Institute of Building
21. Engineering Council
22. Institute of Energy
23. Institution of Structural Engineers
24. Institution of Civil Engineers
25. Institution of Mining Engineers
26. Institution of Mining and Metallurgy

Annex III: Timetable for the transposition of the revised PQD

	2014						2015												2016
	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January
BIS actions	Initial consultation						Consultation on draft regulations						Government response to consultation	Lay regulations	UK legislation comes into force	Transposition deadline*			
	Government response to consultation			Publish guidance for Competent Authorities															
Transparency Process	Peer Review of Architects and Civil Engineers		Peer Review of Electricians and Opticians			National Action Plan published													
EPC	Implementing Acts published												All national information on EPC submitted to Commission						
Alert Mechanism																			

* All Competent Authorities must make sure their internal procedures are set up for the revised Directive by the transposition deadline (18 January 2016)

Annex IV: List of Individuals/Organisations consulted

Please provide any names of individuals or organisations who you believe would also have an interest in this consultation.

Architects Registration Board	Department of Enterprise, Trade and Investment NI
Association of Chartered Certified Accountants	Department for Environment, Food and Rural Affairs
Association of Child Psychotherapists	Department of the Environment NI
Bar Council NI	Department of Health
Bar Library and Inn of Court of NI	Department for Transport
Bar Standards Board	Driving Standards Agency
British Computer Society	Energy Institute
The Care Council for Wales	Engineering Council
Chartered Accountants Ireland (including NI)	Faculty of Advocates
Chartered Institute of Arbitrators	Farriers Registration Council
Chartered Institute of Architectural Technologists	Gas Safe Register
Chartered Institute of Bankers in Scotland	General Chiropractic Council
Chartered Institute of Building	General Dental Council
Chartered Institute of Environmental Health	General Medical Council
Chartered Institute of Housing	General Optical Council
Chartered Institute of Legal Executives	General Osteopathic Council
Chartered Institute of Library and Information Professionals	General Pharmaceutical Council
Chartered Institute of Loss Adjusters	General Teaching Council for NI
Chartered Institute of Management Accountants	General Teaching Council for Scotland
Chartered Institute of Marketing	General Teaching Council for Wales
The Chartered Institute of Public Finance and Accountancy	The Geological Society
Chartered Institute of Taxation	Health and Care Professions Council
Chartered Institution of Building Services Engineers	Health and Safety Executive
Chartered Institution of Wastes Management	HM Revenue and Customs
Chartered Institution of Water and Environmental Management	Insolvency Service
Chartered Insurance Institute	Institute of Chartered Accountants in E&W
Chartered Management Institute	Institute of Chartered Accountants Scotland
Civil Aviation Authority	Institute of Chartered Foresters
Costs Lawyer Standards Board	Institute of Chartered Secretaries and Administrators
Council for Licensed Conveyancers	Institute of Chartered Shipbrokers
Department for Communities and Local Government	Institute and Faculty of Actuaries
Department for Education (National College for Teaching and Leadership)	Institute of Financial Services
	The Institute for Learning
	The Institute of Marine Engineering, Science & Technology
	Institute of Materials, Minerals and Mining
	The Institute of Measurement and Control
	Institute of Mechanical Engineers
	Institute of Mathematics
	Institute of Physics

Institution of Chemical Engineers
Institution of Civil Engineers
Institution of Engineering and Technology
Institution of Gas Engineers and Managers
Institution of Occupational Safety and Health
Institution of Structural Engineers
Intellectual Property Regulation Board
(Institute of Trade Mark Attorneys & Chartered Institute of Patent Attorneys)
Landscape Institute (Royal chartered body for landscape architects)
Law Society NI
Law Society of Scotland
Maritime and Coastguard Agency
National Measurement Office
NI Government (DETINI)
The Nursing and Midwifery Council
Ofsted (standards of teaching in schools and colleges)
Royal Academy of Dance
Royal Aeronautical Society
Royal College of Veterinary Surgeons
The Royal Environmental Health Institute Scotland
Royal Geographical Society

The Royal Horticultural Society
Royal Institute of British Architects
Royal Institution of Chartered Surveyors
Royal Institution of Naval Architects
Royal Meteorological Society
Royal Society of Chemistry
Royal Statistical Society
Royal Town Planning Institute
The Sanctuary / Faculty Office
The Science Council
Scottish Government
Scottish Qualifications Authority
Scottish Social Services Council
The Security Industry Authority
Social Care Council NI
The Society of Biology
The Society of Dyers and Colourists
Solicitors Regulation Authority
The Textile Institute
UK Naric (National Agency responsible for providing information, advice and expert opinion on qualifications worldwide)
Waste Management Industry Training & Advisory Board
Welsh Government

Annex V: Consultation on the transposition of the revised Mutual Recognition of Professional Qualifications Directive (2005/36/EC) response form

Name:

Organisation (if applicable):

Address:

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 06/11/2014

Please return completed forms to:

Francesca Horn
Single Market Team
Department for Business, Innovation & Skills
3rd Floor, Orchard 1
1 Victoria Street
London SW1H 0ET

Telephone: 0207 215 3334

E-mail: MRPQconsultation@bis.gsi.gov.uk

We would like respondents to tick a box from a list of options that best describes them as a respondent. This allows views to be presented by group type.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Competent Authority
	Trade union or staff association
	Other (please describe)

General:

Question 1: Do you agree with our proposal to revoke and replace the current 2007 Regulations rather than amend them?

Comments:

European Professional Card (article 4a – 4d)

Page 14

As mentioned previously, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the EPC. With this in mind, we have the following questions:

Question 2: Do you have any suggestions for professions that should be included in the EPC?

Comments:

Question 3: Within the scope of article 4a.7 of the Directive relating to the power to adopt an implementing act, can you suggest any issues that we should be conscious of with regards to the EPC?

Comments:

Question 4: *Do Competent Authorities expect the EPC to deliver any cost savings from the transfer of responsibility for checking qualifications to home Member States? Please provide any detail possible on the expected cost implications of the EPC for your authority.*

Comments:

Partial Access (Article 4f):

Page 16

Question 5: Bearing in mind the requirements for partial access set out in the Directive (article 4f.1), which professions do you consider eligible for partial access and why?

Comments:

Question 6: Do you think that we should require applicants who wish to access a profession on a partial basis to do so using the title for that profession in English rather than the professional title of their own state? Is the answer different in relation to different professions?

Comments:

Question 7: Are Competent Authorities able to provide any estimate of the cost of addressing an individual partial access case as well as any costs associated with changes (such as IT systems) to their registers to accommodate partial access?

Comments:

Temporary service of provisions (articles 7, 8):

Page 17

Question 8: Do the new requirements for temporary provision require clarification?

Comments:

Question 9: In relation to the option to require a language declaration in relation to professions with safety implication, which professions do you think fall within this description?

Comments:

Question 10: Do any Competent Authorities anticipate additional costs incurred from the temporary service provision amendments?

Comments:

Conditions for recognition (article 13):

Page 18

Question 11: Are the conditions for recognition sufficiently clear?

Comments:

Compensation measures (article 14):

Page 18

Question 12: Although the applicant has the right to choose, Members States' can stipulate, by way of derogation, an adaptation period or aptitude test. Do you think there is a case, in relation to a profession, for expanding the category of cases where we may stipulate either an aptitude period or adaptation test as set out in Article 14.3? If so, please provide reasons for this.

Comments:

Question 13: Does applying a compensation measure raise the administrative costs of processing an application?

Comments:

Recognition of professional traineeship (article 55a)

Page 19

Question 14: What limits to the duration of professional traineeships should be set, if any, in relation to a relevant profession?

Comments:

Question 15: Are there any current guidelines on organisation and recognition of professional traineeships?

Comments:

Automatic recognition on the basis of common training principles (articles 49a and 49b):

Page 20

These principles are subject to delegated acts adopted by the Commission. Therefore we are interested in your views in general terms only at this stage.

Question 16: Is the provision for setting up common training principles/frameworks of interest to your profession?

Comments:

Question 17: Do you consider your profession to be outside the scope of a CTF or CTT and why?

Comments:

Question 18: Do Competent Authorities expect common frameworks and tests to reduce administrative costs in processing PQD applications?

Comments:

Access to information (articles 50.3, 57, 57a):

Page 20

Question 19: Are your procedures already available online?

Yes

No

Not sure

Comments:

Question 20: Do you accept electronic payments?

Yes

No

Not sure

Comments:

Question 21: Is your Competent Authority already linked in to the PSC?

Yes

No

Not sure

Comments:

Question 22: Are Competent Authorities able to provide any information about the expected costs and time taken to make available information through the Points of Single Contact?

Comments:

Question 23: Do any Competent Authorities expect substantive costs to arise from providing electronic application processes? Could you please specify expected costs?

Comments:

Question 24: Do Competent Authorities who have switched to online application systems have any information on the impact this may have had on number of applications?

Comments:

Exchange of Information (article 56)

Page 21

Question 25: Are you aware of IMI?

Yes

No

Not sure

Comments:

Question 26: Are you registered with IMI?

Yes

No

Not sure

Comments:

Question 27: If you are already registered on IMI:

- a. do you find the system easy to use?
- b. do you find the information exchanged useful?

a. Yes No Not sure

b. Yes No Not sure

Comments:

Question 28: Do you consider you should be designated as a coordinator? Please provide reasons.

Comments:

Question 29: Are affected Competent Authorities able to provide more information on how many additional staff may need to use IMI for the alert mechanism and the potential on-going costs of using the system?

Comments:

Alert Mechanism (article 56a):

Page 22

As with the EPC, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the Alert Mechanism. With this in mind, we have the following questions:

Question 30: Within the scope of the implementing act (article 56a.8), can you suggest any issues that we should be conscious of with regards to the Alert Mechanism including:

- Eligible authorities or coordinators
- Procedures on treatment of alerts
- Security of processing alerts?

Comments:

Transparency initiative (article 59):

Page 23

Question 31: Do you have any views on the most effective exercise of the transparency process?

Comments:

Question 32: Do you know of any Chartered Bodies that should be either removed or added from Annex I? Please give reasons for your answer.

Comments:

Question 33: Do you know of any regulated professions that should either be removed or added from Schedule I? (<http://www.legislation.gov.uk/ukxi/2007/2781/schedule/1/made>) Please give reasons for your answer

Comments:

Question 34: Has your Competent Authority updated the information on the database (A request to complete the 'Proportionality' tab was sent on 18 July 2014)?

Comments:

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for your views on this consultation.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes No

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