

Education and Training Committee – 12 June 2012

Modernising the Professional Qualifications Directive 2005/36/EC

Executive summary and recommendations

Introduction

Directive 2005/36/EC on the Recognition of Professional Qualifications (the Directive) is an EU directive which establishes rules for holders of a professional qualification in an EEA Member State to have access to and allow the pursuit of the profession in which they are qualified in another Member State. The HPC applies these rules when it assesses applications we receive from EEA citizens who wish to practise in the UK in any of the professions we regulate.

Following a major review of the Directive, the European Commission has proposed a series of legislative amendments which are currently being considered by the EU Parliament. This paper explains the significance of the Directive to our processes, outlines the detail of the review process and how the HPC has engaged with it, and summarises the key amendments proposed for the Committee's information.

Decision

This is a paper to note, no decision is required.

Background information

AURE position paper on the proposal amending Directive 2005/36/EC, 31 January 2012, www.hpc-uk.org/aboutus/consultations/external/index.asp?id=135.

HPC response to the European Commission Green Paper on Modernising the Professional Qualifications Directive, 20 September 2011, www.hpc-uk.org/aboutus/consultations/external/index.asp?id=127.

HPC response to the House of Lords European Union Committee call for evidence on the Professional Qualifications Directive, 8 June 2011, www.hpc-uk.org/aboutus/consultations/external/index.asp?id=121.

Health Professions Council response to the European Commission consultation on the Professional Qualifications Directive, 15 March 2011, www.hpc-uk.org/aboutus/consultations/external/index.asp?id=119.

Paper to note for Education and Training Committee on 28 March 2007 www.hpc-uk.org/aboutus/committees/archive/index.asp?id=258, enclosure 23.

Resource implications

The current resource implications for the Policy and Standards Department around responding to any future requests for comment on the proposals are accounted for in department planning for 2011/12.

There may be some future resource implications resulting from changes to the Directive. Once the amendments to the legislation are passed by the EU Parliament and it is clear how the HPC will be affected, further information about the resource implications of the changes will be given to the Committee.

Financial implications

None at this time. There may be some future financial implications resulting from changes to the Directive. Once the amendments to the legislation are passed by the EU Parliament and it is clear how the HPC will be affected, further information about the financial implications of the changes will be given to the Committee.

Appendices

None

Date of paper

30 May 2012

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Introduction

Directive 2005/36/EC on the Recognition of Professional Qualifications (the Directive) is an EU Directive which establishes rules for holders of a professional qualification in an EU Member State to have access to and allow the pursuit of the profession in which they are qualified in another Member State. The HPC applies these rules when it assesses applications we receive from European Economic Area (EEA) citizens who wish to practise in the UK in any of the professions we regulate.

Since the Directive came into effect in the UK in 2007, a number of concerns have been raised about the practical application of some of the rules it sets out. In response to these concerns, in March 2010 the European Commission launched a major evaluation of the Directive, with a view to proposing some changes to the legislation. The EU Parliament is now considering proposed amendments to the Directive. The amendments are expected to be passed into legislation by the end of 2012.

The HPC has engaged in the ongoing review of the Directive in a number of ways. This paper explains the significance of the Directive to our processes, outlines the detail of the review process and how the HPC has engaged with it, and summarises the key amendments proposed. It also sets out how the proposed amendments to the Directive could affect the HPC.

Directive 2005/36/EC

Directive 2005/36/EC on the Recognition of Professional Qualifications was adopted by the EU Parliament and Council in 2005 and came into force in the UK in October 2007. It reorganised and harmonised the rules about the recognition of professional qualifications between EU Member States. It also introduced a new regime on temporary mobility of professionals between Member States.

The Directive is applied by the HPC when we receive applications from citizens from EEA countries who wish to practise in any of the professions we regulate in the UK. The professions regulated by the HPC are part of the 'general system' of recognition. This means that EEA professionals who apply to the HPC must—like other international applicants—prove that they meet the standards of proficiency we set for their profession, but there are certain principles that we must apply when we process these applications.

The key principles of the Directive relevant to the HPC are:

- mutual recognition—once a professional is allowed to practise in one EEA member state they can practise in another;
- restriction of movement and the internal market mechanism—only measures that apply to UK nationals can be applied to EEA nationals, these must be equivalent, attainable, and proportional;
- maximum application assessment period of three months;
- freedom of establishment;
- provision of services on a temporary and occasional basis—the HPC holds a ‘temporary and occasional’ register;
- language competence—regulators cannot systematically test language as a condition of recognition;
- the duty to exchange information between competent bodies (regulators) regarding disciplinary action or criminal sanctions or serious circumstances likely to affect the ability of a person to practice their profession.

Reviewing the Directive

Since the Directive was adopted, a number of concerns about how it works in practical terms have been raised. Concerns have been expressed about the length and complexity of recognition procedures that professionals must go through to be able to practise in other states; many professionals have found it difficult to find information on the recognition of their qualifications in other EU states, and then to apply for recognition.

As a result of these concerns the European Commission launched a major evaluation of the Professional Qualifications Directive in March 2010. The process for the review has been as follows:

- March – July 2010: European Commission asked competent authorities (regulators) and national coordinators of the Directive to share their experience of implementing the Directive’s requirements
- October 2010: European Commission published a transposition report including 180 experience reports drawn up by competent authorities in the Member States in the previous months
- 7 January 2011: Directorate General for Internal Market and Services launched a public consultation on the Directive
- January 2011: European Commission forms a steering group on the issue of the European Professional Card
- 5 June 2011: House of Lords European Committee called for evidence to inform its review of the Directive
- 22 June 2011: European Commission published a Green Paper on the Directive, setting out draft proposals for changes to be made to the Directive
- 19 December 2011: European Commission adopted a legislative proposal for modernising Directive 2005/36/EC

- January 2012-present: Directive being considered by the Internal Market and Consumer Protection Committee of the EU Parliament
- November-December 2012: The Directive is expected to be agreed by the European Parliament and Council by end of 2012. It is expected that the changes will come into effect from 2014 onwards.

The legislative proposal

The legislative proposal sets out the following modifications to the Directive, with the aim of facilitating the mobility of professionals by:

- introducing a 'European professional card' for interested professions, which could simplify the administrative requirements and reduce the deadlines for obtaining the recognition of qualifications;
- improving access to information and offering professionals the option to apply for recognition online through a point of single contact;
- introducing the possibility of partial access to a profession, where the activities covered by a regulated profession differ from one Member State to another;
- facilitating the conditions of temporary mobility in case of professional accompanying service users in another Member State;
- introducing 'common training platforms' to harmonise the training requirements for professions that are not part of the automatic recognition regime;
- ensuring transparency on the scope and justification of the regulated professions existing in each Member State;
- introducing an alert mechanism between competent authorities in case of professionals who have been suspended or struck off; and
- clarifying the conditions in which competent authorities can check the language skills of the mobile professionals.

HPC's engagement

The HPC Executive has engaged with each stage of the review process—we have shared our views on the effectiveness of the current Directive, and responded to each of the consultation stages listed above. At each stage we have emphasised the importance of promoting the safety of the public through effective regulation and ensuring proper standards in the practice of health and social care.

We have also joined with other UK professional regulators to put forward our views through the Alliance of UK Health Regulators on Europe (AURE). AURE brings together ten of the health and social care regulators in the United Kingdom to work collaboratively on European issues affecting patient and client safety.

HPC Chief Executive Marc Seale presented our views on the Directive to the House of Lords European Committee in June 2011, and in April 2012 he spoke about the principles of the proposed European professional card to the EU Parliament Internal Market and Consumer Protection Committee.

In addition to other engagement, Marc Seale also acted as a rapporteur for the European Commission steering group on the European professional card. The steering group was formed in January 2011 to inform the Commission's development of the proposal, and comprised representatives of Member States national administrations (Ministries of Economy, Ministries of Education, Ministries of Health), competent authorities and a range of different professional organisations. The group held six meetings; the last meeting took place in September 2011. The discussions in sub-group resulted in case studies about how a professional card would work for different professions including physiotherapists, doctors, and nurses.

How the proposals could affect the HPC

The current legislative proposals could mean the following for the HPC:

- If the European professional card was introduced for the professions the HPC regulates, the HPC would need to process applications for registration from EEA professionals more quickly than it does currently. However, the proposed card system would place more responsibility on the regulators in the professional's home member state to provide clear information about that professional's abilities and right to practise, which could mean that it would be easier to process these applications.
- The HPC may have to accept online applications for registration by EEA nationals through a central access point;
- For professionals who wished to practise on a temporary or occasional basis in the UK, the professional card could replace the current requirement for the professional to make a prior declaration to the HPC;
- The HPC would have greater access to information about the fitness to practise of professionals throughout Europe, as there would be a compulsory requirement for competent authorities to share information about professionals across the EEA;
- The HPC would have a clearer role in checking the language competency of professionals—however we are still awaiting clarification about exactly what this will mean for us as a regulator; and
- The HPC would need to provide more justification of our decisions to apply compensation measures to requests for recognition from migrating professionals.

Next steps

The HPC will continue to engage with the ongoing process to revise and update the Directive. At present, the proposed amendments have not been passed into legislation, and it is likely that there will be some changes to the proposals prior to any of the amendments being passed into EU law.

The Executive will bring further papers to the HPC Education and Training Committee and Council to provide updates on the passage of the legislation, and to inform consideration of any necessary changes that may be needed to HPC processes.