

Appendix 1

Note on Directive 2005/36/EC

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as transposed into Irish law by Statutory Instruments 139 and 166 of 2008, applies to all EEA nationals wishing to practise a regulated profession in an EU Member State other than that in which they obtained their professional qualifications, on either a self-employed or employed basis. Its intention is to make it easier for qualified health professionals, to practice their professions in European countries other than their own but due safeguards are provided in the assessment of the qualification for public health and safety and consumer protection. In certain circumstances, non-EEA nationals who are legally resident in Ireland can benefit from the provisions of the Directive.

Qualifications within the scope of the Directive/ S.Is are held by:

- (a) EEA 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) EEA citizens seeking to practise in 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 3 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/EC¹, who are not nationals of a Member State but how 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 dependent family members, as set out in Council Directive 2004/83/EC².

In relation to professional qualifications in occupational therapy, diagnostic radiography/radiation therapy, podiatry/chiropractic and speech and language therapy, the Directive is transposed in Irish law by Statutory Instrument No. 139 of 2008 and Statutory Instrument No. 166 of 2008. The Minister for Health is the competent authority for the assessment of these professional qualifications and the process is administered by the Health Service Executive (HSE) (National Validation Office (NVO)). The HSE/Minister for Health is advised in this function by the Association of Occupational Therapists (AOTI), the Irish Institute of Radiography and Radiation Therapy (IIRRT), the Podiatry Recognition of Overseas Qualifications Committee (PROQC), and the Irish Association of Speech and Language Therapists (IASLT)

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:229:0035:0048:EN:pdf>

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

respectively. The assessment process is administered by the National Validation Office to which any queries should be addressed.

An applicant seeking recognition of qualifications for establishment must complete in full the relevant application form and must provide all requested supporting documentation, notarised and translated as appropriate, including documentary evidence of eligibility to practise their profession in the country in which the qualification was obtained. Advice on this can be obtained from the National Contact Point for the Directive in that member state (see Annex 5).

The profession which the applicant wishes to pursue in the host Member State must be the same as that for which s/he is qualified in their home Member State, if the activities covered are comparable. The Directive provides for an assessment, on a case-by case basis, of the qualifications of an applicant against those required to practise in the host member state. In Ireland, non-Irish qualifications are assessed for their equivalence to the Irish qualifications required to work in the public health sector. **The general system of the Directive, under which qualifications in occupational therapy, diagnostic radiography/radiation therapy, podiatry/chiropractic and speech and language therapy are assessed, does not provide for automatic recognition of professional qualifications obtained in another Member State. You must submit a personal application on the appropriate application form, clearly stating the profession you wish to practise, documentary evidence of eligibility to practise the profession in the country in which the qualification was obtained, your qualifications and post-qualification professional experience.**

If the activities covered by the profession in the home and the host member state are not comparable, then the qualifications cannot be recognised. If the activities are comparable but deficits in the qualifications are identified, subsequent post-qualification professional experience of the applicant must be considered. If deficits still remain, the host Member State must offer an applicant a compensation measure, a choice of completing an adaptation period or taking an aptitude test. Any costs incurred in compensation measures, which must be undertaken in Ireland, must be borne by the applicant. There is at present a recruitment moratorium in the publicly funded health service which poses significant challenges in relation to supervision arrangements for applicants who require Periods of Adaptation.

This website provides general information only and it is the responsibility of each applicant to inform themselves about the Directive, full information on which is available at http://ec.europa.eu/internal_market/qualifications/index_en.htm. The Frequently Asked Questions(FAQ) (at http://ec.europa.eu/internal_market/qualifications/docs/future/faq_en.pdf) may also be of use to applicants.

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(This document may be updated periodically and you should ensure it is in date at the time of your application)