



STATUTORY INSTRUMENTS.

S.I. No. 263 of 2008



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

(Prn. A8/1031)

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

I, MARY HARNEY, Minister for Health and Children, 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, Council Directive No. 2006/100/EC of 20 November 2006, Article 24 of Council Directive No. 2004/38/EC of 29 April 2004, Article 27 of Council Directive No. 2004/83/EC of 29 April 2004, hereby make the following Regulations:

Citation

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

(2) These Regulations shall come into operation on the date they are signed by the Minister.

Purpose of these Regulations

2. These Regulations govern the recognition in the State of the professional qualifications of dental practitioners and specialised dental practitioners pursuant to Directive 2005/36/EC of the European Parliament and the Council, of 7 September 2005, on the recognition of professional qualifications.

Interpretation

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

“applicant” means a person who applies, pursuant to these Regulations, for registration in the Register of Dentists or the Register of Dental Specialists;

“aptitude test” means a test limited to the professional knowledge of the applicant, made by the Council with the aim of assessing the ability of an applicant to perform the relevant profession. In order to permit this test to be carried out, the Council 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 relevant state in which he or she is established. 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

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“Iris Oifigiúil” of 18th July, 2008.*

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 Council;

“competent authority” means any authority or body empowered by a relevant 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 the Professional Qualifications Directive in respect of the professions of dental practitioner and specialist dental practitioner;

“the Council” means An Chomhairle Fiaclóireachta, or the Dental Council, established by the Dentists Act 1985 (No. 9 of 1985);

“establishment” means the actual pursuit of an economic activity, as referred to in Article 43 of the 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;

“evidence of formal qualifications” means diplomas, certificates and other evidence issued by an authority in a relevant state designated pursuant to legislative, regulatory or administrative provisions in that relevant state and certifying successful completion of professional training obtained mainly in a relevant state;

“Minister” means the Minister for Health and Children;

“national of a relevant state” includes a person who is not a national of a relevant state, but who is, by virtue of any enforceable Community right, entitled to be treated no less favourably than a national of such a state and, in particular:

- (a) family members of European Union citizens, as defined in Article 2(2) and Article 3 of Council Directive 2004/38/EC, who have been given the right of residence or permanent residence, under that Directive; and
- (b) persons granted refugee or subsidiary protection status in the State, and their dependent family members, as set out in Council Directive 2004/83/EC;

“professional experience” means the actual and lawful pursuit in another Member State of a corresponding profession;

“the Professional Qualifications Directive” means Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications, as amended by Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons by reason of the accession of Bulgaria and Romania;

“the Professional Qualifications Regulations” means the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008 (S.I. No. 139 of 2008);

“the Register of Dental Specialists” means the register established under section 29 of the Dentists Act 1985 (No. 9 of 1985) for persons practising orthodontics or oral surgery in the State;

“the Register of Dentists” means the register established under section 26 of the Dentists Act 1985 (No. 9 of 1985);

“relevant state” means—

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

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

“the Treaty” means the Treaty establishing the European Community, signed at Rome on 25 March 1957, as amended;

“visiting service provider” means a person seeking to provide service in the State pursuant to Regulation 13(1);

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

(3) In these Regulations—

- (a) a reference to a regulation is a reference to a regulation of these Regulations unless it is indicated that reference to some other Regulations is intended,
- (b) a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended,
- (c) any reference to an Annex of the Professional Qualifications Directive shall be treated as encompassing the Annexes set out in the Professional Qualifications Directive as updated by the additions in Council Directive 2006/100/EC on foot of the accession of Bulgaria and Romania,

- (d) any reference to an Annex of the Professional Qualifications 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 by the Committee established under Article 58 of the Professional Qualifications Directive.

Competent Authority

4. (1) The Council is hereby designated as the competent authority in the State for the purposes of—

- (a) the Professional Qualifications Directive and the Professional Qualifications Regulations in relation to dental practitioners and specialised dental practitioners,

and,

- (b) the award of evidence of the formal qualifications for dental practitioners and specialised dental practitioners listed in Annex V, points 5.3.2 and 5.3.3 respectively, of the Professional Qualifications Directive.

(2) The functions of the competent authority in the State under the Professional Qualifications Directive and the Professional Qualifications Regulations, in relation to dental practitioners and specialised dental practitioners shall be performed by the Council.

Pursuit of the professional activities of dental practitioners

5. (1) For the purposes of these Regulations, the professional activities of dental practitioners are the activities defined in paragraph (2) of this Regulation and pursued under the professional qualifications listed in Annex V, point 5.3.2 of the Professional Qualifications Directive.

(2) The profession of dental practitioner is based on dental training referred to in Article 34 of the Professional Qualifications Directive and constitutes a specific profession which is distinct from other general or specialised medical professions. Pursuit of the activities of a dental practitioner requires the possession of evidence of formal qualifications referred to in Annex V, point 5.3.2. Holders of such evidence of formal qualifications shall be treated in the same way as those to whom Regulations 8 and 9 apply.

(3) The State shall ensure that dental practitioners are generally able to gain access to and pursue the activities of prevention, diagnosis and treatment of anomalies and diseases affecting the teeth, mouth, jaws and adjoining tissue, having due regard to the relevant regulatory provisions and rules of professional ethics.

Training of dentists and specialist dentists

6. The Council shall ensure that the training of dentists and specialist dentists in the State satisfies the requirements of Articles 34 and 35, respectively, of the Professional Qualifications Directive.

Registration of dental practitioners and specialised dental practitioners under automatic system of recognition

7. (1) (a) Every person, being a national of a relevant state, on making an application in the form and manner specified by the Council and on paying the prescribed fee, and who at the time of such application provides evidence that he or she holds a formal qualification as a dental practitioner which is referred to in Annex V, point 5.3.2, of the Professional Qualifications Directive, and which satisfies the minimum training conditions referred to in Article 34 of that Directive, shall be registered in the Register of Dentists. Such evidence of formal qualifications must be issued by the competent authority in the relevant state and accompanied, where appropriate, by the certificate listed in Annex V, point 5.3.2 of the Professional Qualifications Directive.
- (b) Every person, being a national of a relevant state, on making an application in the form and manner specified by the Council and on paying the prescribed fee, and who at the time of such application provides evidence that he or she holds a formal qualification as a specialised dental practitioner which is referred to in Annex V, point 5.3.3, of the Professional Qualifications Directive, and which satisfies the minimum training conditions referred to in Article 35 of that Directive, shall be registered in the Register of Dental Specialists. Such evidence of formal qualifications must be issued by the competent authority in the relevant state.

(2) Applications for registration pursuant to this Regulation shall be subject to the provisions of Regulation 25 of the Professional Qualifications Regulations, in relation to knowledge of languages.

Registration of dental practitioners — Acquired rights

8. (1) Notwithstanding Regulation 7, each of the following persons, on making an application in the form and manner specified by the Council and on paying the prescribed fee, shall be entitled to be registered in the Register of Dentists:

- (a) a national of a relevant state who, at the time of the application, provides evidence of a formal qualification as a dental practitioner which does not satisfy all the training requirements referred to in Article 34 of the Professional Qualifications Directive, but attests successful completion of training which began before—
- (i) the relevant reference date laid down in Annex V, point 5.3.2, of the Professional Qualifications Directive, in the case of a qualification issued by a Member State of the European Union, or
- (ii) 3 October 1990, in the case of a qualification obtained in the territory of the former German Democratic Republic,

and is accompanied by a certificate stating that the holder has been effectively and lawfully engaged in the activities in question for at least three consecutive years during the five years preceding the award of the certificate;

- (b) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a dental practitioner issued by the former Soviet Union, or whose training commenced—
 - (i) for Estonia, before 20 August 1991,
 - (ii) for Latvia, before 21 August 1991,
 - (iii) for Lithuania, before 11 March 1990,

where the authorities of any of the three aforementioned Member States attest that such evidence of formal qualifications has the same legal validity within their territory as the evidence of formal qualifications which they issue in respect of access to the professional activities of a dental practitioner, and the pursuit of such activities, and such attestation is accompanied by a certificate issued by those same authorities stating that the applicant has been effectively and lawfully engaged in the activities of a dental practitioner within their territory for at least three consecutive years during the five years prior to the date of issue of the certificate;

- (c) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a dental practitioner issued by the former Yugoslavia, or whose training commenced, for Slovenia, before 25 June 1991, where the authorities of that Member State attest that such evidence of formal qualifications has the same legal validity within their territory as the evidence of formal qualifications which they issue in respect of access to the professional activities of a dental practitioner, and the pursuit of such activities, and such attestation is accompanied by a certificate issued by those same authorities stating that the applicant has been effectively and lawfully engaged in the activities of a dental practitioner within their territory for at least three consecutive years during the five years prior to the date of issue of the certificate;
- (d) a national of a relevant state who, at the time of the application, provides evidence of formal qualifications as a dental practitioner which does not correspond to the titles given for the relevant Member State in Annex V, point 5.3.2 of the Professional Qualifications Directive, but is accompanied by a certificate issued by the competent authority or body in that Member State stating that the evidence of formal qualifications certifies successful completion of training in accordance with Article 34 of the Professional Qualifications Directive and is treated by the Member State in the same way as the qualifications whose titles are listed in Annex V, point 5.3.2 of that Directive;

- (e) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a doctor issued in Italy, Spain, Austria, the Czech Republic or Slovakia, where the medical training leading to the said qualification began on or before the reference date listed in Annex V, point 5.3.2, of the Professional Qualifications Directive for the Member State concerned and the application is accompanied by a certificate issued by the competent authorities of that Member State showing:
 - (i) that the applicant has been effectively, lawfully and principally engaged in that Member State in the activities referred to in Regulation 5 for at least three consecutive years during the five years preceding the award of the certificate, and
 - (ii) that the applicant is authorised to pursue the said activities under the same conditions as holders of evidence of formal qualifications listed for that Member State in Annex V, point 5.3.2 of the Professional Qualifications Directive,
- (f) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a doctor issued in Italy, where the university medical training leading to the said qualification began after 28 January 1980 and no later than 31 December 1984 and the application is accompanied by a certificate issued by the competent Italian authorities showing:
 - (i) that the applicant passed the relevant aptitude test held by the competent Italian authorities with a view to establishing that the applicant possessed a level of knowledge and skills comparable to that of persons possessing evidence of formal qualifications listed for Italy in Annex V, point 5.3.2, of the Professional Qualifications Directive,
 - (ii) that the applicant has been effectively, lawfully and principally engaged in the activities referred to in Regulation 5 in Italy for at least three consecutive years during the five years preceding the award of the certificate, and,
 - (iii) that the applicant is authorised to engage in or is effectively, lawfully and principally engaged in the activities referred to in Regulation 5, under the same conditions as the holders of evidence of formal qualifications listed for Italy in Annex V, point 5.3.2, of the Professional Qualifications Directive;
- (g) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a doctor issued in Italy, where the university medical training leading to the said qualification began after 31 December 1984 and the application is accompanied by a certificate issued by the competent Italian authorities showing:

- (i) that the applicant successfully completed at least three years of study, beginning before 31 December 1994, which was equivalent to the training referred to in Article 34 of the Professional Qualifications Directive,
- (ii) that the applicant has been effectively, lawfully and principally engaged in the activities referred to in Regulation 5 in Italy for at least three consecutive years during the five years preceding the award of the certificate, and,
- (iii) that the applicant is authorised to engage in or is effectively, lawfully and principally engaged in the activities referred to in Regulation 5, under the same conditions as the holders of evidence of formal qualifications listed for Italy in Annex V, point 5.3.2, of the Professional Qualifications Directive.

(2) Persons who have successfully completed at least three years of study, certified by the competent authorities in the Member State concerned as being equivalent to the training referred to in Article 34 of the Professional Qualifications Directive, shall be exempt from:

- (a) the three-year practical work experience referred to in paragraph (1)(e)(i),
- (b) the aptitude test referred to in paragraph (1)(f)(i).

(3) In applying paragraph (1)(e), with regard to the Czech Republic and Slovakia, the Council shall accord evidence of formal qualifications obtained in the former Czechoslovakia the same level of recognition as Czech and Slovak evidence of formal qualifications and under the same conditions as set out in paragraph (1)(e).

(4) Applications for registration pursuant to this Regulation shall be subject to the provisions of Regulation 25 of the Professional Qualifications Regulations, in relation to knowledge of languages.

Registration of specialised dental practitioners — Acquired rights

9. (1) Notwithstanding Regulation 7, each of the following persons, on making an application in the form and manner specified by the Council and on paying the prescribed fee, shall be entitled to be registered in the Register of Dental Specialists:

- (a) a national of a relevant state who, at the time of the application, provides evidence of a formal qualification as a specialised dental practitioner which does not satisfy all the training requirements referred to in Article 35 of the Professional Qualifications Directive, but attests successful completion of training which began before—
 - (i) the relevant reference date laid down in Annex V, point 5.3.3, of the Professional Qualifications Directive, in the case of a qualification issued by a Member State of the European Union, or

- (ii) 3 October 1990, in the case of a qualification obtained in the territory of the former German Democratic Republic

and is accompanied by a certificate stating that the holder has been effectively and lawfully engaged in the activities in question for at least three consecutive years during the five years preceding the award of the certificate;

- (b) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a specialised dental practitioner issued by the former Soviet Union, or whose training commenced—

- (i) for Estonia, before 20 August 1991,

- (ii) for Latvia, before 21 August 1991,

- (iii) for Lithuania, before 11 March 1990,

where the authorities of any of the three aforementioned Member States attest that such evidence of formal qualifications has the same legal validity within their territory as the evidence of formal qualifications which they issue in respect of access to the professional activities of a specialised dental practitioner, and the pursuit of such activities, and such attestation is accompanied by a certificate issued by those same authorities stating that the applicant has been effectively and lawfully engaged in the activities of a specialised dental practitioner within their territory for at least three consecutive years during the five years prior to the date of issue of the certificate;

- (c) a national of a relevant state who, at the time of the application, provides evidence that he or she holds a formal qualification as a specialised dental practitioner issued by the former Yugoslavia, or whose training commenced, for Slovenia, before 25 June 1991, where the authorities of that Member State attest that such evidence of formal qualification has the same legal validity within their territory as the evidence of formal qualifications which they issue in respect of access to the professional activities of a specialised dental practitioner, and the pursuit of such activities, and such attestation is accompanied by a certificate issued by those same authorities stating that the applicant has been effectively and lawfully engaged in the activities of a specialised dental practitioner within their territory for at least three consecutive years during the five years prior to the date of issue of the certificate;

- (d) a national of a relevant state who, at the time of the application, provides evidence of formal qualifications as a specialised dental practitioner which does not correspond to the titles given for the relevant Member State in Annex V, points 5.3.3 of the Professional Qualifications Directive, but is accompanied by a certificate issued by the competent authority or body in that Member State stating that the

evidence of formal qualifications certifies successful completion of training in accordance with Article 35 of the Professional Qualifications Directive and is treated by the Member State in the same way as the qualifications whose titles are listed in Annex V, point 5.3.3 of that Directive.

(2) Applications for registration pursuant to this Regulation shall be subject to the provisions of Regulation 25 of the Professional Qualifications Regulations, in relation to knowledge of languages.

Registration of dentists and specialist dentists under general system of recognition

10. (1) Where a national of a relevant state makes an application for registration in the Register of Dentists and does not satisfy the requirements of Regulation 7 or Regulation 8, such an application shall be considered by the Council under the provisions of Part 2 of the Professional Qualifications Regulations.

(2) Where a national of a relevant state makes an application for registration in the Register of Dental Specialists and does not satisfy the requirements of Regulation 7 or Regulation 9, such an application shall be considered by the Council under the provisions of Part 2 of the Professional Qualifications Regulations.

Procedure, documentation and formalities relating to applications for registration

11. (1) The Council shall acknowledge receipt of an application pursuant to Regulation 7, 8, 9 or 10 within 1 month of the date of its receipt and shall inform the applicant of any missing document(s).

(2) When considering an application pursuant to Regulation 7, 8, 9 or 10, the Council may, in accordance with the provisions of Annex VII of the Professional Qualifications Directive—

- (i) demand the documents and certificates listed in that Annex, and
- (ii) invite the applicant to provide information concerning his or her training to the extent necessary in order to determine the existence of potential substantial differences between it and the required national training, or, where it is impossible for the applicant to provide this information, address the contact point, the competent authority or any other relevant body in the relevant state.

(3) The documents referred to in Annex VII, points 1(d), (e) and (f), of the Professional Qualifications Directive shall not be more than three months old by the date on which they are submitted.

(4) (a) Subject to paragraphs (5) and (6), the Council shall determine an application pursuant to Regulation 7, 8, 9 or 10 as soon as possible after receiving all documents prescribed for the purposes of determining the application or required by the Council under paragraph (2) and, in any event, within three months after such receipt,

- (b) The Council may extend the period laid down in subparagraph (a) by 1 month in relation to applications considered under Regulation 10.

(5) Where the Council has a reasonable and justified doubt in relation to an application pursuant to Regulation 7, 8, 9 or 10 it may require of a competent authority of a relevant state—

- (a) confirmation of the authenticity of the attestations and evidence of formal qualifications as a dental practitioner or specialised dental practitioner awarded in that relevant state, and
- (b) where applicable, confirmation that a person applying for registration pursuant to Regulation 7, 8 or 9 has fulfilled the minimum training requirements for the profession of dental practitioner or specialised dental practitioner, specified in Articles 34 and 35, respectively, of the Professional Qualifications Directive.

(6) Where the Council has reasonable and justified doubt in relation to an application pursuant to Regulation 7, 8, 9 or 10 by a person whose evidence of formal qualifications was issued by a competent authority in a relevant state and includes training received in whole or in part in an establishment legally established in the territory of another relevant state, the Council may verify with the competent body in the 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 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 state of origin of the award; and
- (c) whether the evidence of formal qualifications confers the same professional rights in the territory of the state of origin of the award.

(7) The Council shall ensure the confidentiality of information received under paragraph (2).

(8) Where an applicant is required to swear a solemn oath or make a sworn statement, the form of which is such that it cannot be taken or made by applicants of a relevant state, the Council shall ensure that an appropriate equivalent form of oath or declaration is available for those applicants.

(9) In accordance with Article 56(2) of the Professional Qualifications Directive, the Council shall exchange, with competent authorities of other relevant states, information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under that Directive.

Appeal to the High Court

12. (1) A decision of the Council on an application for registration pursuant to Regulation 7, 8, 9 or 10, or failure to reach such decision within the period prescribed in Regulation 11(4), may be appealed to the High Court.

(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 Council in relation to the application concerned,
- (b) make any decision in relation to the application that could be made by the Council,
- (c) remit the application with or without directions to the Council 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 Council to make a decision in relation to the application concerned, within 42 days of the expiration of the periods of time specified in Regulation 11(4).

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

Visiting service providers

13. (1) Subject to compliance with the provisions of this Regulation, where a service provider legally established in a relevant state for the purpose of pursuing the profession of dental practitioner or specialised dental practitioner, hereinafter a “visiting service provider”, intends to visit the State for the purpose of providing, on a temporary or occasional basis, services in the State that would come within the scope of practice of a dentist or specialist dentist in the State, and applies to the Council for registration for that purpose, the Council shall register that visiting service provider in the Register of Dentists, or, where appropriate, the Register of Dental Specialists, on a temporary basis, for a time period to be set by the Council having regard to the nature and extent of the services to be provided.

(2) In order to be registered under paragraph (1), a visiting service provider must give to the Council, in advance of the services being provided and thereafter on an annual basis if the visiting service provider intends to provide services during that year, a written declaration, which shall include particulars of the services to be rendered and the period or periods in which the visiting service provider expects to render them.

(3) The declaration in paragraph (2) shall be accompanied by the following documents in the case of the first such declaration (and thereafter only if there is a material change in the situation substantiated by such documents):

- (i) proof of nationality of a relevant state;
- (ii) an attestation from the relevant competent authority, certifying that the visiting service provider is—
 - a. legally established in a relevant state for the purpose of practising as a dental practitioner or specialised dental practitioner, and
 - b. not prohibited from practising in the particular profession, even temporarily, at the moment of delivering the attestation;
- (iii) evidence of formal qualification as a dental practitioner or specialised dental practitioner in a relevant state.

(4) Subject to paragraph (5), in the case of a visiting service provider who would not be eligible for automatic recognition as a dentist or specialist dentist under Regulation 7, 8 or 9, the Council may check the professional qualifications of the visiting service provider prior to the first provision of services where the purpose of the verification is justified and proportionate in order to avoid serious damage to the health or safety of the recipient of the service, due to a lack of professional qualifications of the person, and the check does not go beyond what is necessary to achieve that purpose.

- (5) (a) Where paragraph (4) applies, the Council shall, within the first month following receipt of the declaration and accompanying documents required under this Regulation, endeavour to inform the visiting service provider of its decision not to check his or her qualifications, or of the outcome of such a check.
- (b) Where there is a difficulty which would result in the delay of a decision pursuant to paragraph (4), the Council shall notify the visiting 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 under this Regulation.

(6) Subject to the time periods specified in paragraph (5), where a check pursuant to paragraph (4) reveals a substantial difference between the professional qualifications of the visiting service provider and the training required for the particular profession in the State, to the extent that that difference is such as to be harmful to public health or safety, the Council shall give the visiting service provider the opportunity to show, in particular by means of an aptitude test, that he or she has acquired the knowledge and competence lacking.

(7) The Council may, in respect of a visiting service provider who has made a declaration pursuant to paragraph (2), request any competent authority in the

relevant state in which the visiting service provider is established, for each provision of services specified in the declaration, to provide any information relevant to the legality of the visiting service provider's establishment, the visiting service provider's good conduct and the absence of any disciplinary or criminal sanctions of a professional nature.

(8) (a) The service shall be provided under the professional title of "dentist" where:

- (i) the service provider would be eligible for automatic recognition as a dental practitioner under Regulation 7 or 8, or
- (ii) the service provider would not be eligible for automatic recognition as a dental practitioner under Regulation 7 or 8, but his or her professional qualifications have been verified under paragraph (4);

(b) The service shall be provided under the professional title of "specialist dentist" where:

- (i) the service provider would be eligible for automatic recognition as a specialised dental practitioner under Regulation 7 or 9, or
- (ii) the service provider would not be eligible for automatic recognition as a specialised dental practitioner under Regulation 7 or 9, but his or her professional qualifications have been verified under paragraph (4).

(9) A visiting service provider registered in accordance with paragraph (1) shall be subject to rules made by the Council, as well as the disciplinary provisions which are applicable in the State, in particular, Part V of the Dentists Act 1985 (No. 9 of 1985).

(10) The temporary and occasional nature of the proposed provision of services by a visiting service provider from a relevant state shall be assessed by the Council on a case by case basis, in particular in relation to its duration, its frequency, its regularity and its continuity.

(11) The Council shall note in the appropriate register that the visiting service provider is temporarily registered pursuant to these Regulations and shall enter the particulars referred to in paragraph (2).

(12) A visiting service provider shall not practise in the State otherwise than in accordance with a declaration made under paragraph (2) and within the scope of practice of the particular profession.

Transition Arrangements

14. An application under the Dentists Act 1985 (No. 9 of 1985) for registration in the register by a national of a relevant state holding a formal qualification as a dental practitioner or a specialised dental practitioner, which has not

been determined prior to the commencement of these Regulations, shall be considered by the Council as if it were made pursuant to these Regulations.

Repeals

15. The following Regulations are revoked—

The European Communities (Recognition of Dental Qualifications) Regulations 1980 (S.I. No. 90 of 1980).



GIVEN under my Official Seal,
14 July 2008

MARY HARNEY,
Minister for Health and Children.

EXPLANATORY NOTE

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

The purpose of these Regulations is to implement Council Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications, as amended by Council Directive 2006/100/EC of 20 November 2006, insofar as that Directive concerns the professions of dental practitioner and specialised dental practitioner.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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