

## EU Policy Update (EU2012.03):

# Modernising EU Professional Qualifications Directive

Updated: 17 February 2012

### Summary of main points in proposals

#### Introduction

On 19 December 2011 the European Commission (‘the Commission’) published proposals for revisions to the 2005 EU Directive on professional qualifications.<sup>1</sup>

The primary aim of the revisions is to help stimulate mobility of professional workers across the EU by removing barriers to movement. The proposal is one of 12 actions of the **Single Market Act** published in April 2011, aimed at strengthening the EU single market.

The Directive applies to ‘regulated professions’ within the EU, of which there are around 800 categories. ‘Regulated profession’ are those where practice of the profession is contingent on first undertaking certain ‘recognised’ professional qualifications/training.

The Commission is not proposing a new Directive but instead seeks to revise the 2005 Directive.<sup>2</sup>

#### Summary of the main elements

The main changes proposed include:

- **Creation of a European Professional Card:** to make it possible for easier and quicker recognition

<sup>1</sup> COM(2011)883 See **DG Internal Market web-site**

<sup>2</sup> Directive (2005/36/EC) See **DG Internal Market web-site**

of qualifications and facilitate temporary mobility. It would take the form of an electronic certificate, allowing the professional to provide services or become established in another Member State. The Commission launched an expert group on this idea in January 2011, which met six times during 2011, and followed this up with a Green Paper in June 2011.<sup>3</sup> The European Professional Card would be implemented through the existing **Internal Market Information System (IMI)**, a system for exchanging information between Member States.

- **Rules on language skills:** the proposal clarifies that checking of language knowledge of a professional should take place only after the host Member State has recognised the qualification. In the case of professions involving patient safety, competent authorities can carry out the language examination if it is requested by the national healthcare system or by national patients' organisations, in particular in the case of self-employed health professionals.
- **Alert mechanism for health professions benefiting from automatic recognition:** competent authorities of a Member State to be required to inform (via the IMI described above) the competent authorities of all other Member States about a health professional who has been prohibited from exercising their professional activity. This obligation applies only to health professionals benefiting from automatic recognition (doctors, nurses, midwives, dentists, pharmacists, veterinary surgeons). Other professions are covered by the alert mechanism already existing in the Services Directive.
- **Modernisation of harmonised minimum training requirements:** proposes some changes in the definition of the minimum training requirements for the professions benefiting from

<sup>3</sup> See **DG Internal Market web-site**

automatic recognition, in particular for doctors, nurses, midwives and architects:

- **Doctors:** medical education should be based on 5,500 training hours, reached within a minimum of five years. Possibility for Member States to give partial exemptions to specialist doctors willing to follow a second specialist training.
  - **Nurses and midwives:** upgrade the entry level to nursing / midwifery training from 10 years to 12 years of general education. The proposal would not require Member States to introduce university training for nurses and midwives. Nurses or midwives who have started their training before the entry into force of the new Directive would still benefit from automatic recognition.
  - **Architects:** training of 6 years, to include either 1 or 2 years supervised practical experience in addition to the university training.
- **Ensuring compliance with minimum training requirements:** Member States to designate a national body in charge of examining the compliance of new diplomas with the minimum training requirements defined in the Directive (for the **seven 'sectoral' professions**: doctors, nurses, midwives, dentists, pharmacists, veterinary surgeons and architects).
  - **Mutual evaluation exercise on regulated professions:** Member States to provide a list of their regulated professions and justify the need for regulation. Follow up mutual evaluation exercise facilitated by the Commission.

## Timing and legislative process

In October 2011 the European Council called for political agreement by the end of 2012 on the 12 initiatives identified in the Single Market Act, including the proposed revisions to the 2005 Professional Qualifications Directive. This view was endorsed by the European Parliament in its report of November 2011.

## Background context to proposal

The proposals are the result of a review of the 2005 Directive (2005/36/EC) on the recognition of professional qualifications. The Commission carried out a public consultation on the existing Directive at the beginning of 2010, and followed this with a second consultation on a **Green Paper** published in June 2011, which closed in September.<sup>4</sup>

As has already been noted, the revision to the Directive is one of 12 initiatives identified in the **Single Market Act** published in 2011. Re-launching the Single Market is one of the core priorities of the EU, which the UK Government strongly supports.

## Relevance to Wales

The mobility of professionals across EU Member States, particularly in the health professions, is an area of interest to Wales.

Currently the UK Government has reserved powers over certain aspects of the medical profession and the health care system, such as the regulation of doctors by the General Medical Council, the regulation of pharmacists and pharmacy technicians through the General Pharmaceutical Council, the regulation of nurses and midwives through the Midwifery Council and the immigration policy which impacts on overseas doctors and medical students. However, the Welsh Government is responsible for service delivery and therefore the training, recruitment, contracts, incentives and working environments often differ between the UK and Wales.

The National Leadership and Innovation Agency for Healthcare (NLIAH) supports the Welsh Government in the planning and delivering of workforce requirements,

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<sup>4</sup> The European Commission received over 400 responses, including a number from the UK. See **European Commission web-site**.

both in terms of numbers and skills, and is critical to the delivery of key strategic objectives as set out in *Designed for Life, Designed to Deliver, Designed to Work* and *Together for Health* agendas.

On 1 February 2012 the Welsh Government launched a campaign to encourage more doctors to apply to work in Wales.<sup>5</sup> There have been reported problems in parts of Wales and the UK in attracting doctors, particularly in certain specialties such as emergency medicine, psychiatry and paediatrics. The Minister for Health and Social Services has also asked Welsh Government officials to look positively at recruiting more from the EU to help address recruitment issues.<sup>6</sup>

The **General Medical Council**, which has responsibility for registering doctors to practise medicine within the UK (including Wales), has expressed concern that some doctors from the EU do not have sufficient language skills to practice in the UK, and that some do not have clinical competence to practice. The revisions to the Directive aim to clarify safeguards to address concerns in this area.

The **NHS Confederation's European Office**<sup>7</sup> welcomes a number of elements of the Commission's proposals. However, it has expressed concerns about the European Professional Card, is calling for rules on language checks to be strengthened, and for regulators to be able to warn each other about all disciplinary sanctions including those short of suspension or exclusion from the professional register in a Member State.

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<sup>5</sup> Welsh Government, News Release, **New Drive to attract more doctors to Wales**, 1 February 2012 [accessed 10 February 2012]

<sup>6</sup> National Assembly for Wales, Health and Social Care Committee, **RoP [para 68]**, 25 January 2012 [accessed 20 February 2012]

<sup>7</sup> See **European Briefing 8 February 2012: NHS European Office**

## UK Government position

***The UK Government published an Explanatory Memorandum (EM)<sup>8</sup> on 12 January 2012 setting out its reaction to the Commission's proposals.***

The UK Government EM broadly welcomes the changes proposed to the existing Directive. It notes that the proposed revisions include a number of suggestions made by the UK Government and other interested parties from the UK. It is particularly pleased that the proposed revisions to the Directive include asking Member States to check that their regulation of included professions is proportionate and necessary, and that these are reported to the Commission.

The UK Government also welcomes a number of other aspects in the Directive, but believes they need further clarification.

These include:

- **Language testing**, although concerns of the UK health regulators have been partially addressed, the UK Government feels that the text in the Directive needs to be explained further to make clear the full implications of the proposed changes.
- **Ensuring that approving applications for the European Professional Card lie with the host competent authority**, and making the timescale for approving applications more realistic.
- Many of the proposals allow the Commission to enact frameworks for individual professions, or create specific guidelines in areas such as data protection. **The UK Government is looking to ensure that procedures linked to these mechanisms include clearer obligations on the Commission to consult with Member States and stakeholders where appropriate.**

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<sup>8</sup> Available on the UK Cabinet Office web-site

## Welsh Government position

As some of the issues covered by the Directive are devolved matters, the Welsh Government was consulted in the preparation of the UK Government's EM along with the other devolved administrations.

However, there are currently no details concerning the Welsh Government's views on the proposals. The Welsh Government did not submit a response to the public consultation held in the summer of 2011.

## Progress of dossier in EU institutions

*This section will be updated as the negotiations take place in Brussels and the official positions of the EU Institutions become clear.*

### Monitoring the dossier

This proposal will be adopted through the 'ordinary legislative process' (co-decision), which requires agreement by the European Parliament and the Council of Ministers (i.e. Member State governments) on the final text, with the Commission acting as broker. The progress of the dossier through the EU decision-making process can be followed on two web-sites:

- **European Parliament's Legislative Observatory**
- **European Commission's Pre-Lex web-site**

Note: these pages will contain information on the broad EU level discussion, but will not contain specific information on the UK/Welsh positions/interests on the dossiers. We will pick up on the latter in the sections below.

### European Parliament:

The lead Committee will be the **Industry, Research and Energy Committee** which is chaired by **German MEP Herbert Reul** (European People's Party - EPP, centre-right, and the largest political group in the

European Parliament). There are no Welsh MEPs on this Committee. However, there are four UK MEPs: three members and one substitute.

The rapporteur is: **French MEP Bernadette Vergnaud** (Socialists and Democrats Group).

### Council of Ministers:

Within the Council of Ministers the lead will be taken by the **Competitiveness Council**, with technical discussions on the proposed changes in Council working groups involving officials from the UK Government. The Competitiveness Council has two meetings scheduled (20-21 February and 30-31 May) during the **Danish Presidency of the EU**, although the revisions to the Directive do not at this stage appear on the agenda for either of the meetings. UK Ministers (and officials) will represent Wales in these discussions (formal Council meetings and in the working groups).

## Further information

For further information please contact  
Gregg Jones (**[Gregg.Jones@wales.gov.uk](mailto:Gregg.Jones@wales.gov.uk)**) EU Office,  
Tel. 0032 2 226 6692, or Tel. 0044 781 616 4455