

**Health Professions Council  
The Council, 31st May 2007**

**2005/36/EC (Professional Qualifications Directive) - Update**

**Executive Summary and Recommendations**

**Introduction**

There are 3 routes onto the HPC register: UK training and registration, grandparenting and international. International applicants can be either EEA (Member States of the European Union plus Norway, Switzerland, Iceland and Liechtenstein) or non-EEA applicants. The definition of an EEA applicant is someone who can prove nationality (i.e. citizenship) and a right to practise in another EEA country. They can also demonstrate an acquired right through marriage and educational qualifications.

Applicants to the HPC from the EEA are currently assessed under the General Systems directive. This directive will be superseded by directive 2005/36/EC from the 20<sup>th</sup> October 2007. The aim of directive 2005/36/EC is to reorganise, rationalise and harmonise all 15 rules (including the General Systems directive) relating to professional recognition. Existing European legislation is brought together so that the principles of recognition are standardised across all professions.

Directive 2005/36/EC establishes rules for holders of a professional qualification in a Member State to have access to and allow the pursuit of the profession in which they are qualified in another Member State.

The directive has no impact on UK-trained applicants but is meant for EEA nationals applying for registration. There are some minor alterations to our current registration systems:

- A decision must be given within 3 months of receipt of a complete application.
- Common platforms (Article 15)
  - Common platforms are a set of educational criteria which make it possible to compensate for the widest range of substantial differences. It is a means of waiving compensation measures for potential registrants who meet pre-agreed criteria.
  - A common platform is a voluntary agreement between member countries, which with EU Commission approval will become a legal entity. The agreement is flexible and can be abolished if necessary.
- Language competence (Article 53)
  - EU Commission has reaffirmed that systematic language testing is ruled out as a condition of recognition. Confirmed by ECJ case of Wilson (Case C-506/04). Speech and language therapy is the only profession that is exempted from this part of the directive because it is a core competence of the profession.
- Duty to exchange information between competent bodies (Article 56).

One important aspect of the directive is temporary registration. The following paper gives information on the free provision of services aspect of the directive that will affect our registration functions.

**Decision**

This paper is for discussion.

**Background information**

Directive 2005/36/EC will come into force on 20<sup>th</sup> October 2007.

A full copy of the directive text:

[http://eur-](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_255/l_25520050930en00220142.pdf)

[lex.europa.eu/LexUriServ/site/en/oj/2005/l\\_255/l\\_25520050930en00220142.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_255/l_25520050930en00220142.pdf)

**Resource implications**

Not applicable.

**Financial implications**

Not applicable

**Background papers**

None

**Appendices**

None

**Date of paper**

21st May 2007

## **Directive 2005/36/EC (on the recognition of professional qualifications)**

### Temporary and occasional services - Articles 5-9

#### Summary

This relates to the provision of services on a temporary and occasional basis by a professional who provides services on a permanent basis (established) in another Member State.

The directive is still with the UK government and is still in the process of being transposed into UK legislation. We have received a draft copy of the UK legislation and will be responding by the consultation end date of 3<sup>rd</sup> August 2007.

Article 5(2) of the directive defines temporary as:

*“The temporary and occasional nature of the provision of services shall be assessed case by case, in particular in relation to its duration, its frequency, its regularity and its continuity”.*

The directive states that a service provider applying for temporary registration must have received a decision within a month of HPC’s receipt of all relevant documentation; if no response is received from us the service provider can practise under the protected title. A definitive list of the documentation we can request has not yet been finalised.

We do know that it will include:

- A declaration of the intention to provide a temporary service
- Proof of nationality
- Evidence of legal establishment in another EEA state
- Evidence of professional qualifications or proof of professional experience
- Evidence of insurance cover

An important part of the directive is that temporary registration must be at no cost to the applicant for the duration of the service provision; we cannot charge a scrutiny fee or fees for temporary registration. Therefore, any costs incurred would have to be met by the registration fees of current registrants.

There are provisions for the use of aptitude tests and requests for further information from applicants in extreme circumstances on a case-by-case basis, provided this is requested within the first month from receipt of completed documentation.

We have a project team that are considering how to develop a system that will incorporate temporary registration into our current systems. This has to be implemented by 20<sup>th</sup> October 2007 when the legislation comes into force. As this has not yet been transposed into UK legislation we cannot be sure of the exact requirements that we will

have to meet. The project is part of the current yearly project plan and has been budgeted for.

We are also working closely with the other healthcare regulators in the UK, especially through the Alliance of UK Regulators in Europe (AURE) as well as regulators across Europe (including the Healthcare Professionals Crossing Borders agreement working groups).

The Executive will keep the Council updated with further developments in this area.