

2011 No. 2008

ARCHITECTS

**The Architects (Recognition of European Qualifications)
Regulations 2011**

<i>Made</i>	- - - -	<i>11th August 2011</i>
<i>Laid before Parliament</i>		<i>18th August 2011</i>
<i>Coming into force</i>	- -	<i>12th September 2011</i>

The Secretary of State is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the recognition of higher-education diplomas, formal qualifications, or experience in the occupation, required for the pursuit of professions or occupations.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act:

Citation and commencement

1. These Regulations may be cited as the Architects (Recognition of European Qualifications) Regulations 2011 and come into force on 12th September 2011.

Amendment of the Architects Act 1997

2. In paragraph (a) of section 4(2A) (Registration in Part 1 of the Register: general) of the Architects Act 1997(c), for the words from “and he is either” to the end of the paragraph substitute “which provides access to the profession of architect in the relevant European State in which that evidence was issued”.

Signed by authority of the Secretary of State

11th August 2011

Andrew Stunell
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) S.I. 2002/248.

(b) 1972 c. 68. The enabling powers of section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51). Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51) section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7) section 3(3), Schedule, Part 1.

(c) 1997 c.22. Section 4(2A) was inserted by S.I. 2002/2842 and amended by S.I. 2008/1331 regulations 2 and 6(1)(c).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend section 4(2A) of the Architects Act 1997 (c.22) (“the Act”). Section 4(2A) was inserted into the Act by the Architect (Recognition of European Qualifications etc and Saving and Transitional Provision) Regulations 2008 (S.I. 2008/1331) which implemented, in part, Directive 2005/36/EC (OJ No L 255, 30.0.05, p.22) amended by Council Directive 2006/100/EC (OJ No L 363, 20.12.06, p.141) (“the Directive”) on the recognition of professional qualifications.

The Directive is designed to remove obstacles to free movement of persons and services within the European Union, so that nationals of the Member states have the right to pursue a profession in a Member state other than the one in which they have obtained their qualifications. This is achieved by the Directive providing for a procedure of the automatic recognition of certain specified qualifications, and for a procedure for assessing other qualifications for the purpose of giving access to a profession. These Regulations amend the Architects Act 1997 to ensure the automatic recognition of the updated qualifications listed in point 5.7.1 of Annex V to the Directive.

The requirements to produce evidence of lawful establishment or eligibility to practise were inserted into the Act in order to clarify that the UK would accept registration (or lawful establishment) in the home Member State where qualifications had been issued but would also accept evidence demonstrating that were the applicant to apply for registration in their home Member State they would be eligible to do so. The UK considered that such clarification would help in avoiding Member State nationals who intended to practice only in the UK being required to pay registration fees in both their home Member State and in the UK. At the same time, these requirements ensured that where entries in Annex V were not current in describing what was required to access a given home Member State market individuals would not gain access to the profession in the UK unless they were eligible to do so in their home Member State. Since Annex V now lists for each Member State all the qualifications (including practical experience) required to gain access to the profession, these additional requirements of lawful establishment and eligibility to practise are not necessary in order to ensure automatic recognition.

The Regulations remove the statement that in order to benefit from recognition of the professional qualifications gained in his or her home Member State a Directive-rights national needs to be lawfully established or eligible to practise. Instead individuals shall be treated as having achieved an equivalent standard of competence by producing evidence of a kind described in section 4A(1) where this provides access to the profession in the home Member State. The evidence described in section 4A(1) includes evidence of formal qualifications listed in point 5.7.1 of Annex V to the Directive.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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