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open for professions

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Department of Trade and Industry

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# introduction

The Treaty of Rome guarantees the freedom for every citizen of a Member State of the European Union (EU) to work, to seek work, to set up business or to provide services in any other EU Member State without discrimination on grounds of nationality. The Single Market, defined in the Single European Act as an area without internal frontiers in which the free movement of goods,

persons, services and capital is ensured, now comprises the 15 Member States of the European Union - Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom, together with, in most respects, Norway, Iceland and Liechtenstein, which are Member States of the European Economic Area (EEA).



This booklet gives advice on how to exercise your freedom to work within the Single Market.

The most common problem experienced by intending migrant workers within the Single Market is that of the transferability of professional or vocational qualifications. Under the Treaty, each Member State retains its own particular system of education and training, which leads to its own particular professional qualifications. In many Member States, access to professional and vocational activities is controlled by laws requiring the possession of a national diploma in the area of work concerned. How then can people educated and trained in different Member States, each with their own national diploma for the profession or occupation in question, work in these regulated fields in other Member States?

There are currently three different systems enabling people to transfer their qualifications and skills between Member States:

- [Transitional Measures Directives](#)
- [First General System Directive](#)
- [Second General System Directive](#)

# the transitional measures directives

Some Member States require crafts- or tradespeople, such as construction workers or hairdressers, who wish to work in an independent or self-employed capacity, to hold a particular vocational qualification (such as the Meisterprüfung required in Germany). These trades are covered by a number of Transitional Measures directives, which require the authorities to accept proof of a prescribed period of experience by the migrant in his/her home Member State as a substitute for



the relevant national qualification. The experience must be certified by the authorities in the migrant's home Member State. British craftspeople

wishing to exercise their trade in other Member States can apply to have their experience certified under the **UK Certificates of Experience scheme**. A Guidance Note giving more information on the scheme is at Annex A.

The European Commission has made a proposal to incorporate the Transitional Measures directives into a single text. A note on the current state of the negotiations is at Annex B.

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# the sectoral directives

In the case of professional qualifications requiring tertiary or level three education, the Commission at first decided to tackle the problem profession by profession.

The approach adopted was to negotiate harmonisation of basic training in a profession in all Member States, so that the outcome would be a qualification recognised by all.



Seven **Sectoral directives** were agreed on this basis, covering doctors, dentists, pharmacists, midwives, nurses responsible for general care, veterinary surgeons and architects. Recognition at the basic level of being licensed to practise in the other Member States of the EU and EEA is in principle automatic, but intending migrants should obtain more information from the relevant contact. A list of UK contacts for the Sectoral directives is at Annex C. The harmonisation of training required under these directives is at a general level, and any specialisation will not necessarily be covered. This approach to legislation proved to be unacceptably complex and slow (the Architect's Directive took 17 years to finalise) and the Commission decided that what was needed was a more flexible means of enabling people to work in other Member States without having to requalify from the beginning.

# the general system directives

The result was the **General System for Mutual Recognition of Professional Qualifications**, which is operated by means of two European Directives: **89/48/EEC** (the First Diploma Directive) and **92/51/EEC** (the Second Diploma Directive). These two directives cover between them all regulated occupations, professions and titles not covered by the Transitional Measures directives or the Sectoral directives.

The General System is founded on the premise that an individual qualified in one Member State to exercise a given profession or occupation should be treated in principle as qualified to exercise that same profession or occupation in another Member State, without having to requalify from the beginning. It rejects the principle of relying on harmonised training across all Member States, and thus requires mutual trust in the validity of professional or vocational training anywhere in the EU or EEA. The consequence for the migrant is that his or her qualification should benefit from recognition in any Member State, with the proviso that, where it appears that there are substantial differences between the education and

training to which the qualification attests and that required in the host Member State, the migrant may be asked to compensate for these differences in accordance with mechanisms laid down in the directives.

However, because professional activities are structured differently in different Member States, it is important to note that the General System only applies in relation to **the same profession**. It is not enough for the **name of the profession** to be the same; the **profile of professional activities** must broadly correspond. This may be particularly important in professions supplementary to medicine, such as physiotherapy and radiography. In the UK these professions are carried on by independent practitioners, to whom patients may refer themselves directly and who are trained in diagnostic work and treatment planning. In some other Member States these and similar health professionals work with patients referred to them by a medical practitioner, who undertakes diagnosis and plans treatment to be carried out under his/her supervision.

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In such cases, unless the applicant has acquired some independent post-qualification experience, the professional profile presented may correspond more to that of an assistant than to that of a fully qualified practitioner.

All Member States have appointed a National Coordinator for each directive, to act as a source of information and advice to applicants. A list of contact names and addresses is at Annex D.

## What professions does the General System apply to?

Both directives apply to **regulated professions** which are not covered by the Transitional Measures directives or the Sectoral directives. There are various methods of regulation recognised by the directives.

- In most Member States there are **laws prescribing national qualifications** for specific occupations: eg teachers in public-sector schools, officers in the merchant marine, health practitioners such as physiotherapists, chiropodists and dental hygienists: these professions are regulated directly by law.
- There are also laws and administrative provisions governing the use of **professional titles**. In the UK the directives would apply to professional titles such as 'Chartered Surveyor', which are awarded by a professional body incorporated by Royal Charter; in some other Member States the use of the simple title 'Engineer' is restricted to those with a specified qualification.
- In some Member States health professions are regulated in so far as **reimbursement of medical expenses** is made only where treatment has been carried out by a health professional with the prescribed Member State diploma.

Professions regulated by law in the UK include legal professions, teachers in state schools, approved driving instructors, dispensing opticians and state-registered practice of health professions such as chiropody and physiotherapy. However, direct regulation of professions by law is comparatively rare in the UK. The main mode of regulation is the restriction of use of titles and designatory letters awarded by professional associations which are **chartered bodies**.

The Charter is a means whereby the state formally recognises the association as a body which awards a title or designatory letters to its members, ensures that they respect the rules of professional conduct prescribed by the body, and confers on them the right to use a title or designatory letters, such as Chartered Engineer, Engineering Technician, MIME (Member of the Institute of Mechanical Engineers). Professional activities are not restricted by law to members of a chartered body but employers will generally expect applicants for professional and managerial posts to hold corporate membership of such a body.

Lists of professions and titles currently regulated in the UK are at Annexes E and F.

More information about regulated professions and titles in other Member States can be obtained from the relevant National Coordinator (see Annex D for list of names and addresses).

## How the General System Works

In order to be eligible to make use of the General System, you must possess **what the directives call a diploma**. This consists of an appropriate combination of academic or vocational qualifications and evidence of training or experience, all gained wholly or mainly within the EU or EEA. If your qualifications have been gained elsewhere, they may still be eligible for assessment under the General System if a Member State has accepted them as valid for the purpose of admission to a regulated profession and you have the appropriate period of professional experience in that Member State.

### Directive 89/48/EEC

To be eligible for assessment under **Directive 89/48/EEC (First Diploma Directive)**, you must have successfully completed a post-secondary course of at least **three years' duration** (or of an equivalent duration part-time) at a **university or establishment of higher education**. You must in addition have successfully completed any professional training required to enable you to practise the profession concerned.

### Directive 92/51/EEC

**Directive 92/51/EEC (Second Diploma Directive)** complements the First Directive by covering those professions regulated below degree level.

There are three main levels of recognition within the directive:

- **Diploma**
- **Certificate**
- **Attestation of Competence**

To be eligible at **Diploma** level, you must hold evidence of education and training which shows that you have successfully completed either:

- **a post-secondary course of at least one year's duration (or equivalent part-time) plus any relevant professional training.** The course must have similar entry requirements to those for entry to higher education or university courses, *or*
- **one of the education and training courses listed in Annex C of the directive.** You can obtain a list of these courses from the UK Coordinator for Directive 92/51/EEC (contact details at Annex D).

To be eligible at **Certificate** level, you must hold evidence of education and training which shows that you have either:

- **successfully followed a secondary course of a technical or vocational nature which makes it unnecessary to complete any further course of education and training or probationary or professional practice, *or***

- **successfully followed a secondary course followed by either**
  - any additional probationary or professional practice required, *or*
  - a course of education and training plus any extra professional training required.

To be eligible at **Attestation of Competence** level you must hold evidence of qualifications which either:

- **attest to education and training not forming part of qualifications required for Diploma or Certificate level, *or***
- **have been awarded, following an assessment of personal qualities, aptitudes or knowledge considered essential for the pursuit of a profession, where no proof of prior education and training is required.**

# provisions of the general system

**If you hold a qualification entitling you to practise a regulated profession in your Member State of origin**, this is sufficient to establish that you are eligible for consideration under the General System. For example, if your UK degree in physiotherapy qualifies you for registration with the Physiotherapists' Board, you are then eligible immediately upon graduation and registration to apply under Directive 89/48/EEC to practise as a physiotherapist in other Member States. If, on the other hand, you need to supplement your engineering degree with a period of pre-professional supervised practice before you can be admitted as a Chartered Engineer, then you will be eligible under the directive only when you have completed that further training and been awarded the Chartered title.

However, you may also be eligible for recognition of qualifications in respect of professions regulated under the General System **even if your profession is not regulated in your Member State of origin**. In this case, you must provide evidence

of the relevant level of education and the appropriate period of post-qualification practice in a Member State which does not regulate the profession (not necessarily your Member State of origin). The purpose of the requirement to provide evidence of a period of professional experience in respect of a non-regulated profession, in addition to evidence of the appropriate level of education and training, is to delineate the range of activities which constitute the practice of the profession.

Application for recognition should be made to the appropriate authority in the Member State concerned. This may be called the **competent authority** or **designated authority** for the profession.

The authority may ask you to provide evidence of your qualifications and professional experience and other evidence of eligibility (eg of citizenship of the EU or EEA) in order to assess your application. Once you have supplied all the required documentation, the authority must



consider your application and inform you of its decision **within four months**.

The authority may decide to admit you at once to the profession in the host Member State, without any further requirement. It may refuse to do so, in which case it must give you reasons for its negative decision and inform you of the appeal procedure to which you are entitled under the directive. It may decide that, while your diploma has covered most of the theory and practice required in the host Member State, there are some significant differences which will require you to undertake compensatory measures.

For example, your initial academic studies may have been shorter than those required for the profession in the host Member State, or you may

not have covered a particular part of the subject matter which the host Member State regards as essential. In these cases, the authority is entitled to require you to undertake either an **aptitude test** - an examination covering only those areas in which your diploma is deficient - or an **adaptation period** - a period in which the missing elements can be made good by supervised experience or a course of study. The authority may also ask for evidence of extra professional experience to compensate for a shortfall in length in your academic studies.

With the exception of very few professions (mostly legal) which have been granted an exemption, the authority may not specify the method of compensatory measure. **The choice between an aptitude test or adaptation period is yours.**

**When assessing your diploma, the authority must take into account any knowledge and/or expertise you have acquired during the course of your professional experience.**

For example, the authority may not reject your diploma or demand compensatory measures on the grounds that your studies have not included certain aspects of professional knowledge if you have nonetheless successfully applied them in your post-qualification professional experience.

# practical arrangements for diploma recognition

You should first of all identify the competent or designated authority for your profession in the Member State in which you wish to work.

Information can be obtained from the National Coordinator for that Member State. Lists of designated authorities for professions regulated in the UK under Directives 89/48/EEC and 92/51/EEC are at Annexes E and F respectively.

You should then inform the authority that you wish to apply for recognition and ask what documents are required.

The authority is likely to require some or all of the following:

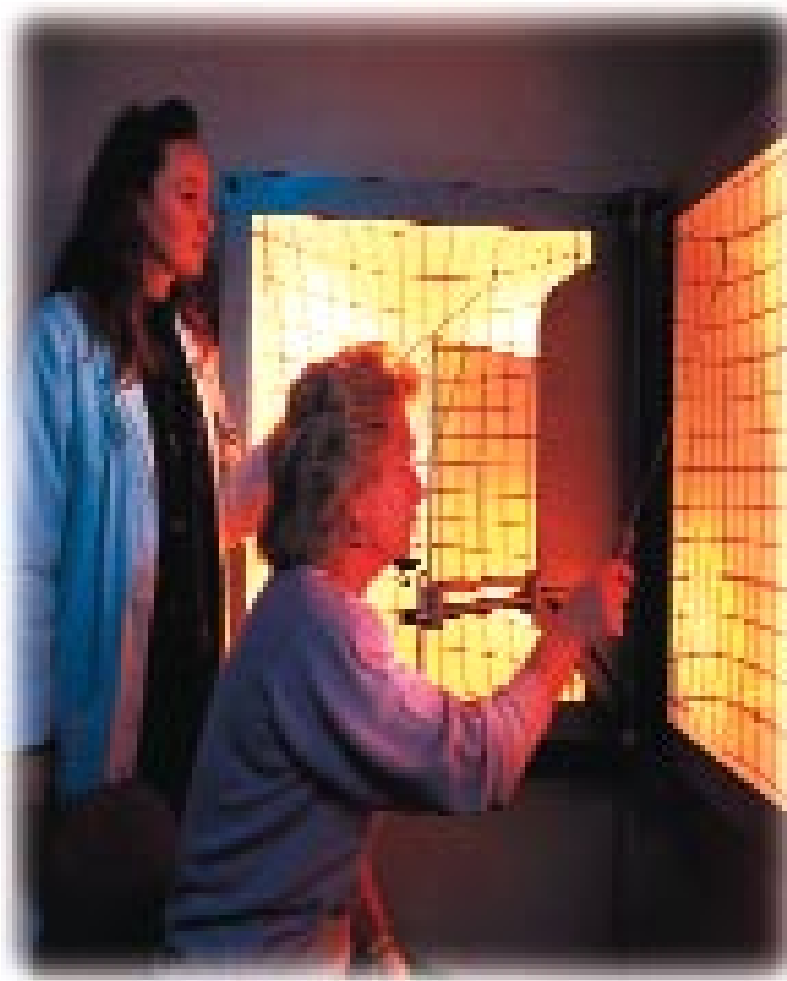
- completed application form (almost certainly in the language of the Member State to which you are applying)
- evidence of identity and nationality (copy of birth certificate, passport etc)
- copy of diploma (your academic certificate(s), plus, where relevant, evidence of successfully completed

training and/or evidence of your enrolment on the register of a statutory board)

■ evidence of professional experience

■ certificates of good health (obtained from your own doctor), good financial standing (eg from your bank, or some Member States may require a sworn deposition from you that you are not bankrupt), and good professional conduct (belonging to a professional association is obviously very helpful here).

**Translation** of all or some of these documents may be required. The European Commission takes the view that authorities may require certified translations only for key documents, or where the content is difficult to understand, but should be prepared to accept informal translations of ancillary documents. It is your responsibility to ascertain the requirements of the particular authority for your profession.



Once you have submitted your application and been informed that your file is complete, the authority must give you a reasoned reply within **four months**. It should also inform you of the **appeal procedure**, in case you wish to exercise your right to appeal against the decision.

If the authority accepts your application conditionally upon an aptitude test or an adaptation period, then it is in most cases for you to choose. If you choose an aptitude test, the authority may require you to wait a reasonable time until a test can be set, and may charge you for it, although the charge must not exceed the actual cost incurred. Should you choose an adaptation period, it is your responsibility to find a fellow professional or company acceptable to the authority to supervise and assess the adaptation period. Your professional association may be able to help you find a suitable placement.

In the event that your education and training has not covered knowledge considered essential to the profession in the host Member State, the authority may wish to interview you in order to discuss areas of expertise covered in your post-qualification experience. This may be particularly important where the safety of the public may be involved.

A **Fee** may be charged for the assessment of your application. There is no standard charge, but the fee must not exceed the actual costs incurred by the authority.

You can find more detailed information about applying for recognition under the General System directives in the European Commission's Guide for Users of the General System for the Recognition of Professional Qualifications, which can be obtained from the UK Coordinators (contact details at Annex D).

# existing treaty and case law rights<sup>1</sup>



Article 48 of the Treaty of Rome provides for freedom of movement for workers within the European Union. Article 52 provides for freedom to take up and pursue activities as self-employed persons and to set up and manage companies and firms in other Member States on the same basis as nationals of the Member State concerned.

You are enabled to exercise these Treaty rights by both European legislation and the case law of the European Court of Justice (ECJ), which is binding on Member States.

A particularly important ruling by the ECJ is in the case of *Heylens* (ECJ 222/86). Mr Heylens, a Belgian national holding a Belgian football coaching qualification, was refused permission to coach a French team because the French authorities insisted on a French qualification. Mr Heylens continued nonetheless to coach his French team and was subject to criminal proceedings in the French court. The court asked for a preliminary ruling from the ECJ, which held that any decision refusing

<sup>1</sup>correct as at date of publication

permission to work as a coach should be **based on stated reasons** which could be **justified under the Treaty**, and should be **subject to a process of appeal** in which its legality under EC law could be tested. The implication was that, unless good reasons could be given (for example, substantial differences in the French and Belgian qualifications), such a refusal would be contrary to Article 48 of the Treaty.

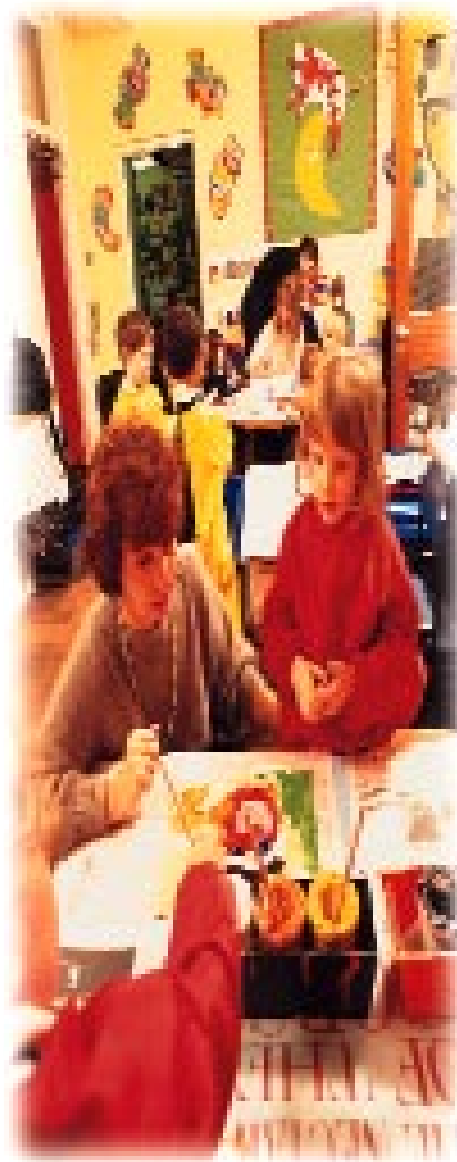
A more recent case was that of *Vlassopolou (ECJ 340/89)*. Mrs Vlassopolou was a Greek lawyer who was prevented from registering at the German bar, because her initial legal qualification was deemed to be inadequate. The ECJ ruled that an individual's **professional experience must be taken into account** as well as his/her original qualification.

Since then there have been a number of other ECJ cases which have reinforced these principles.

**You should note, however, that existing Treaty rights and ECJ case law do not oblige Member States to accept qualifications**

**gained in other Member States; they merely uphold the legal principle that national authorities may not reject such qualifications without good reason.**

# academic and vocational qualifications



## Academic Qualifications

It is important to remember that the General System applies only to **fully qualified professionals**. Students wishing to undertake part of their studies or training in other Member States should always bear in mind that they may have difficulty in using an **academic** qualification acquired in one Member State for the purpose of access to a profession in another. You cannot use the General System until you have fulfilled all the conditions required under either directive.

If you intend to pursue studies in other Member States, always make sure in advance that any academic qualifications thus gained will be acceptable to the Member State from which you wish to obtain your final professional status. Recognition of qualifications for academic purposes - eg for access to Masters' and Doctorate programmes - is not covered by European law and remains the province of the Member State and/or university concerned.

## NARIC (National Academic Recognition Information Centre) NETWORK

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There is a **NARIC** in each Member State. It gives advice and information on the broad equivalence **for academic purposes** of qualifications gained in other Member States. You should contact the NARIC office in the Member State where you wish to pursue your studies or seek work for advice on the level at which your qualification fits into that Member State's education system. A contact list is at Annex G.

There is also a useful book: *The International Guide to Qualifications in Education*, Fourth Edition 1996, published by Mansell plc. This publication contains an evaluation in terms of British qualifications for the main academic qualifications awarded in 180 countries. It can generally be consulted in your local reference library. UK NARIC charges a fee for its work; it is therefore desirable to look in the *International Guide* for an equivalence for your qualification before requesting one from NARIC.

## Vocational Qualifications

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Guidance about vocational qualifications in the UK can be obtained from:

The Public Enquiry Unit  
DfEE  
Lower Ground Floor  
Sanctuary Buildings  
Great Smith Street  
London SW1P 3BT

Tel: 0171 925 5555  
Fax: 0171 925 6971  
e-mail: [info@dfee.gov.uk](mailto:info@dfee.gov.uk)

For information on equivalences for UK vocational qualifications in other Member States contact the National Coordinator for Directive 92/51/EEC (Second Diploma Directive) in the Member State where you wish to work.



# transport

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A list of contacts in the UK transport sector responsible for maritime certificates, road and civil aviation licensing is at Annex H.