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S.I. No. 745/2007 — European Communities (Veterinary Practice Act 2005) (Qualifications in Veterinary Medicine) Regulations 2007

S.I. No. 745 of 2007

EUROPEAN COMMUNITIES (VETERINARY PRACTICE ACT 2005)
(QUALIFICATIONS IN VETERINARY MEDICINE) REGULATIONS 2007

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 13th November, 2007.

I, MARY COUGHLAN, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Council Directive 2005/36/EC ¹ of 7 September 2005, in so far as that Directive relates to veterinary medicine, hereby make the following Regulations—

1. These Regulations may be cited as the European Communities (Veterinary Practice Act 2005) (Qualifications in Veterinary Medicine) Regulations 2007.

2. Paragraph 3(b) comes into operation on 1 July 2008.

3. The Veterinary Practice Act 2005 (No. 22 of 2005) is amended—

(a) by the substitution, for section 43, of—

“43. (1) The Council, when exercising its functions under *Section 13(2)(d)* and *Part 6*, shall satisfy itself that Articles 21(6) and 38 of the Mutual Recognition Directive have been complied with by a provider of a programme of education in the State.

(2) The Council, on application to it in that behalf in writing by a person to whom *subsection (3)* applies, in accordance with regulations under *section 52(1)*, and on payment to it of the fee prescribed under *section 33*, shall register the person

as a veterinary practitioner.

(3) For the purposes of *subsection (2)*, this subsection applies to a person who shows to the satisfaction of the Council that he or she—

(a) (i) holds a diploma, certificate or other evidence of formal qualification in veterinary medicine awarded in accordance with Article 21(1) of the Mutual Recognition Directive, or

(ii) holds a diploma, certificate or other evidence of formal qualification in veterinary medicine referred to in Article 23(1), (2), (3), (4), (5) or (6) or Article 39 of the Mutual Recognition Directive and where the certification required by those Articles has been given by the competent authority of the home relevant State,

(b) is a national of the State or a relevant State,

(c) is of good character and repute and is not an undischarged bankrupt,

(d) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

(e) is not prohibited from practising, or suspended from the practice of, veterinary medicine, either under *Part 7* or provisions corresponding to those contained in that Part that apply in another state, by reason of a conviction for an offence, or serious misconduct in connection with the carrying out of professional duties as a veterinary practitioner.

(4) The Council, on application to it in that behalf in writing by a person to whom *subsection (5)* applies, in accordance with regulations under *section 52(1)*, and on payment to it of the fee prescribed under *section 33*, shall register the person as a veterinary practitioner.

(5) For the purposes of *subsection (4)*, this subsection applies to a person who shows to the satisfaction of the Council that he or she—

(a) holds a diploma, or certificate, or as regards whom there is evidence of formal qualification as a veterinary practitioner granted by the competent authority of a third country where the diploma, certificate or other evidence had been recognised by a relevant State for the purpose of the practice of veterinary medicine in that State,

(b) has a minimum of 3 years professional experience as a veterinary practitioner in the relevant State referred to in *subparagraph (a)*,

(c) is a national of the State or a relevant State,

(d) is of good character and repute and is not an undischarged bankrupt,

(e) has not been convicted by a court, in the State or elsewhere of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

(f) is not prohibited from practising or suspended from the practice of, veterinary medicine, either under *Part 7* or provisions corresponding to those contained in that Part that apply in another state, by reason of a conviction for an offence, or serious misconduct in connection with the carrying out of professional duties as a veterinary practitioner.

(6) The Council, on application to it in that behalf in writing by a person to whom *subsection (7)* applies, in accordance with regulations made under *section 52(1)* and on payment of the fee prescribed under *section 33*, shall register the person as a veterinary practitioner.

(7) For the purposes of *subsection (6)*, this subsection refers to a veterinary practitioner who comes within the scope of Article 10 of the Mutual Recognition Directive and who shows to the satisfaction of the Council that he or she—

(a) has complied with Article 13 of the Mutual Recognition Directive,

(b) is a national of the State or a relevant State,

(c) is of good character and repute and is not an undischarged bankrupt,

(d) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

(e) is not prohibited from practising, or suspended from the practice of, veterinary medicine, either under *Part 7* or provisions corresponding to those contained in that Part that apply in another state, by reason of a conviction for an offence, or serious misconduct in connection with the carrying out of professional duties as a veterinary practitioner.

(8) *Parts 1 and 2 of Schedule 3* apply to applications made under *subsections (2), (4) and (6)*.

(9) Where a person who is legally established as a veterinary practitioner in a relevant State and who—

(a) wishes to provide veterinary services within the limits and under the conditions laid down in Article 5 of the Mutual Recognition Directive, and

(b) furnishes—

(i) a prior declaration of his or her intention to provide services in accordance with Article 7 of the Mutual Recognition Directive in the manner prescribed,

(ii) a certificate from the competent authority of the relevant State where the applicant is established, which confirms such establishment and that he or she is lawfully practising as a veterinary practitioner in that State,

(iii) a copy of his or her qualification or a statement from the competent authority of the home relevant State that the applicant holds a diploma, certificate or other evidence of formal qualifications as a veterinary practitioner, and

(iv) proof of nationality,

and the documents referred to in this paragraph are in order, the Council shall register that person as a veterinary practitioner for a period not exceeding 12 months.

(10) If the Council is satisfied to do so and, on application to it in that behalf from the person referred to in *subsection (9)*, it may renew the registration for further periods not exceeding 12 months, provided that, in relation to an application for such renewal, the person complies with *paragraphs (a) and (b) of subsection (9)*.

(11) *Parts 1 and 3 of Schedule 3* apply to applications made under *subsections (9) and (10)*.

(12) If the Council decides that a person who applies to it for registration under this section should not be so registered, it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made.

(13) A person who receives a notification under *subsection (12)* may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt.

(14) On the hearing of an appeal under this section, the High Court may make

(a) an order affirming or setting aside any decision of the Council relating to the application for registration concerned,

(b) an order remitting the application for registration with or without directions to the Council for reconsideration and the making of a new decision in relation to it, or

(c) any other order that it considers appropriate.

(15) In this section, in *section 95(7) to (15)* and in *Schedule 3*—

“competent authority” means—

(a) in relation to a relevant State, the authority designated in accordance with Article 56(3) of the Mutual Recognition Directive, and

(b) in relation to the State, the Council;

“home relevant State” in relation to a veterinary practitioner, means the relevant State in which he or she acquired his or her diploma, certificate or other evidence of formal qualification or where he or she is registered as a veterinary practitioner;

“Mutual Recognition Directive” means Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications;

“relevant State” means—

(a) a Member State (other than the State) of the European Communities,

(b) a State that is a contracting State to the EEA agreement within the meaning given to that phrase in the European Communities (Amendment) Act 1993 , and

(c) the Swiss Confederation;

“third country” means a country that is not a relevant State or the State;

“Treaties” means—

(a) the Treaty relating to the accession of the Hellenic Republic to the European Communities and the European Atomic Energy Community, signed at Athens on the 28th day of May 1979,

(b) the Treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Communities and the European Atomic Energy Community, signed on the 12th day of June 1985,

(c) the Treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Communities signed at Corfu on the 24th day of June 1994,

(d) the Treaty relating to the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed at Athens on the 16th day of April 2003,

(e) the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed at Luxembourg on the 25th day of April 2005.

“veterinary practitioner” has the same meaning as “veterinary surgeon” in the Mutual Recognition Directive.

(16) A word or expression that is used in this section, *section 95(7) to (12)* or in *Schedule 3* and is also used in the Directives referred to in this section, *section 95(7) to (12)* or in *Schedule 3* has, unless the contrary intention appears, the same meaning in this section, *section 95(7) to (12)* and in *Schedule 3* as it has in those Directives”,

(b) by the insertion, after *subsection (6)*, in *Section 95* of—

“(7) The Council, on application to it in that behalf in writing by a person to whom *subsection (8)* applies, in accordance with regulations made under *section 52(1)* and on payment of the fee prescribed under *section 33*, shall register the person as a veterinary nurse.

(8) For the purposes of *subsection (7)*, this subsection refers to a veterinary nurse who comes within the scope of Article 10 of the Mutual Recognition Directive and who shows to the satisfaction of the Council that he or she—

(a) has complied with Article 13 of the Mutual Recognition Directive,

(b) is a national of the State or a relevant State,

(c) is of good character and repute and is not an undischarged bankrupt,

(d) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

(e) is not prohibited from practising, or suspended from the practice of, veterinary nursing, either under *Part 7* or provisions corresponding to those contained in that Part that apply in another state, by reason of a conviction for an offence, or serious misconduct in connection with the carrying out of professional duties as a veterinary nurse.

(9) *Parts 1 and 2 of Schedule 3* apply to an application made under *subsection (7)*.

(10) Where a person who is legally established as a veterinary nurse in a relevant State and who—

(a) wishes to provide services as a veterinary nurse within the limits and under the conditions laid down in Article 5 of the Mutual Recognition Directive, and

(b) furnishes—

(i) a prior declaration of his or her intention to provide services in accordance with Article 7 of the Mutual Recognition Directive in the manner prescribed,

(ii) a certificate from the competent authority of the relevant State where the applicant is established, which confirms such establishment and that he or she is lawfully practising as a veterinary nurse in that State,

(iii) where the profession of veterinary nursing is not regulated in the relevant State where he or she is established, proof that the person has practised as a veterinary nurse for not less than two of the ten years preceding the application,

(iv) a copy of his or her qualification or a statement from the competent

authority of the home relevant State that the applicant holds a diploma, certificate or other evidence of formal qualifications as a veterinary nurse, and

(v) proof of nationality,

and the documents referred to in this paragraph are in order, the Council shall register that person as a veterinary nurse for a period not exceeding 12 months.

(11) If the Council is satisfied to do so and, on application to it in that behalf from the person referred to in *subsection (10)*, it may renew the registration for further periods not exceeding 12 months, provided that, in relation to an application for such renewal, the person complies with *paragraphs (a) and (b) of subsection (10)*.

(12) Parts 1 and 3 of *Schedule 3* apply to applications made under *subsection (10)*.

(13) If the Council decides that a person who applies to it for registration under *subsections (7) or (10)* should not be so registered, it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made.

(14) A person who receives a notification under *subsection (13)* may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt.

(15) On the hearing of an appeal under this section, the High Court may make —

(a) an order affirming or setting aside any decision of the Council relating to the application for registration concerned,

(b) an order remitting the application for registration with or without directions to the Council for reconsideration and the making of a new decision in relation to it, or

(c) any other order that it considers appropriate.”

(c) by the substitution, for *Schedule 3*, of—

“ SCHEDULE 3

MUTUAL RECOGNITION AND ESTABLISHMENT OF SERVICES

PART 1

INTERPRETATION

1. In this Schedule “application” means an application for registration under *section 43* or *section 95(7) or (10)*.

PART 2

PROVISIONS TO APPLY TO APPLICATIONS UNDER MUTUAL RECOGNITION REQUIREMENTS OF THE EUROPEAN UNION

1. The Council shall acknowledge the application as soon as possible and in any event within 1 month of receiving it and shall identify any required documentation which has not been provided by the applicant or by the competent authority in the relevant State.

2. Subject to *paragraphs 3 and 4*, the Council shall determine the application as soon as possible, and in any event within—

(a) 3 months after receiving all documents prescribed under *section 52* or required in the case of an application by a person referred to in *section 43(2)*,

(b) 4 months after receiving all documents prescribed under *section 52* or required in the case of an application by a person referred to in *section 43(4) or (6) or section 95(7)*.

3. The Council shall not consider evidence which does not comply with the second sub-paragraph of Article 21(1) of the Mutual Recognition Directive.

4. The Council shall not consider, in relation to an application under *section 43(2), (4) or (6) or section 95(7)*, documentation from a competent authority in a relevant State which is more than three months old on the date such documentation is submitted to the Council for the purposes of *section 43(3)(c) to (e), (5)(d) to (f) or (7)(c) to (e) or section 95(8)(c) to (e)*.

5. The Council, following determination of an application, may satisfy itself that an applicant has the necessary linguistic skills in accordance with Article 53 of the Mutual Recognition Directive and where the Council, in exceptional cases, considers this to be necessary, it may require the applicant to undergo a language test.

6. The Council may require the competent authorities of a relevant State to confirm or verify any of the matters referred to in Article 50(2) or (3) of the Mutual Recognition Directive.

7. The Council shall ensure the confidentiality of any information issued or received under Article 50 of the Mutual Recognition Directive.

8. Prior to registering an applicant in accordance with *section 43(2), (4) or (6)*, the Council may require him or her to make a declaration that complies with Article 50(4) of the Mutual Recognition Directive.

9. In the case of an application to which *section 43(6) or section 95(7)* refers, the Council, where it considers it appropriate, may apply Article 14 of the Mutual Recognition Directive.

10. A person registered under *section 43(2), (4) or (6) or section 95(7)* shall use the professional title applicable to that profession on the same basis as a person trained in the State.

11. The Council may register the applicant subject to a condition requiring him or her, when using any academic title in accordance with Article 54 of the Mutual Recognition Directive, being an academic title which is relevant to the application, to indicate by whom it was conferred or awarded.

12. Where the Council is of opinion that the academic title to which any diploma, certificate, or other document on which an application is grounded is capable of being understood as indicating that a person entitled to use such title or qualification has pursued a programme of education other than that which he or she has in fact undergone, the Council may in accordance with Article 54 of the Mutual Recognition Directive make it a condition of registration that the person concerned shall use the title, qualification or status in a manner directed by the Council.

13. Where a condition is attached by the Council under this Schedule and there is failure by the person to whom the condition relates to comply with the condition, the Council, if it thinks fit, may—

(a) direct that, during such period as shall be specified in the direction, his or her registration shall not have effect, or

(b) remove his or her name from the Register.

14. Where the Council is requested by a competent authority in another relevant State to furnish certification as to any matters referred to in *Annex VII (1) (d)* of the Mutual Recognition Directive and where such certification relates to its functions deriving from the aforementioned Directive, it shall do so within two months of receiving the request.

PART 3

PROVISIONS TO APPLY TO APPLICATIONS THAT RELATE TO PROVISION OF SERVICES

1. Subject to *subparagraph (2)*, documents referred to in *section 43(9)(b)* and *section 95(10)(b)* shall be furnished to the Council no later than 15 days before the first day, as notified by the applicant to the Council, on which the applicant intends to provide such services.

2. If the applicant cannot furnish the documents, referred to in *section 43(9)(b)* or *section 95(10)(b)*, but he or she satisfies the Council that there are compelling reasons why he or she should commence providing services on the day as notified by the applicant, as being the first day on which he or she intends to provide such services, then the documents may be furnished to the Council within 15 days after that day.

3. The Council, where it considers it appropriate to do so, may request from the competent authority in the relevant State concerned, information on the legality of the applicant's establishment, his or her good conduct or confirmation of the absence of any disciplinary or criminal sanctions related to the practice of veterinary medicine as a veterinary practitioner or as a veterinary nurse.

4. The Council, following determination of an application, may satisfy itself that an applicant has the necessary linguistic skills in accordance with Article 53 of the Mutual Recognition Directive and where it, in exceptional cases, considers this to be necessary, it may require the applicant to undergo a language test.

5. No fee shall be payable to the Council in respect of the application, and sections 54 and 58 shall not apply to the applicant during the period beginning on the day that his or her application is received and ending on the day that the Council decides whether or not to register the applicant.

6. A person registered under *section 43(9)* shall, for the purposes of providing professional services in the State, use a professional title on the same basis as a person trained in the State.

7. A person registered under *section 95(10)* shall, for the purposes of providing professional services in the State—

(a) use a professional title which is designated for a veterinary nurse by the competent authority in the relevant State where he or she is established, or

(b) where no professional title is designated for a veterinary nurse in the relevant State where he or she is established, use the formal qualification which he or she holds.

8. In the case of a person referred to in paragraph 7 of this Part, the Council may, as a condition of registration, require the person to furnish recipients of his or her professional services with any relevant information referred to in Article 9 of the Mutual Recognition Directive.

9. Where a document, referred to in Article 7(2)(b) of the Mutual Recognition

Directive, is issued by the Council and the Council subsequently takes a decision in respect of the person concerned in accordance with *Section 80, 81, 82 or 84*, the Council shall immediately so inform the competent authority of each relevant State.

10. The Council shall participate in administrative co-operation with competent authorities in other relevant States in accordance with Article 8(2) and Article 56(1) and (2) of the Mutual Recognition Directive.”

GIVEN under my Official Seal,

6 November 2007

MARY COUGHLAN,

Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

These Regulations transpose Directive 2005/36/EC of the European Parliament and of the Council as regards the regime for mutual recognition of professional qualifications obtained in another Member State of the European Union, or, in certain cases, in a Third Country, by veterinary practitioners and veterinary nurses.

1 OJ L 255, 30.09.2005, p.22