

**Health Professions Council
Council meeting, 5th July 2007**

**Competent Authority for Clinical Psychology under EU Directive 89/48/EEC
(General Systems directive)**

Executive Summary and Recommendations

Introduction

To facilitate the free movement of professionals between the countries of the EU, governments may designate certain organisations as Competent Authorities. Their role is to assess the competence of the professionals and to register successful ones. Thus, the Health Professions Council is the UK Competent Authority for the 13 professions we currently regulate.

The British Psychological Society (BPS) is the Competent Authority for certain psychologists. However, following a number of complaints by non-UK psychologists, the European Commission has issued an Infraction Order against HM Government. In essence this requires the UK Government to rectify an infringement of EU legislation without delay.

To rectify the situation, the Department of Health and the Department for Education and Skills have instructed the BPS to amend their processes and register a number of applicants by Friday 29th June. If this instruction is not complied with the Competent Authority status will be transferred to the HPC probably within 28 days.

A letter from the Department of Health dated 23rd May and the draft Statutory Instrument are attached for reference. The Council will be updated with any developments on 5th July.

The instruction only applies to clinical psychology applicants who come under Directive 89/48/EEC. The competent authority for an applicant through any other route will still be the BPS.

Timescales

The Government has given the BPS until the 29th June 2007 to change their assessment process so that they are in line with will the provisions of Directive 89/48/EEC. If this does not happen the Government will lay the statutory instrument (appendix 1) before parliament on the 2nd July 2007 which will come in to force on the 30th July 2007.

This course of action has been agreed with both DH and DfES Ministers. The amending statutory instrument is in preparation and will include three provisions:

- the de-designation of BPS and substitution of HPC as the UK competent authority for clinical psychologists;

- a provision relating to registration by BPS of those EEA clinical psychologists assessed by HPC as meeting appropriate standards for registration and issued with a statement of equivalence;
- transitional provisions relating to candidates who may already have applied for assessment for work in the UK.

Approval mechanisms

Scrutiny and approval will be carried out by the HPC using appropriate standards.

The HPC will direct the BPS to enter the name of the successful applicant on to their register and issue the applicant with a practising certificate in respect of clinical psychology.

Decision

This paper is for information only; no decision is required.

Resource implications

None, the expected numbers of applicants are low.

Financial implications

None, the scrutiny fee will be the same as that charged to all EEA applicants (£400)

Background papers

None

Appendices

Appendix 1: Draft Statutory instrument – Professional Qualifications, The Migrant Clinical Psychologists from the European Economic Area or Switzerland Regulations 2007

Appendix 2: Department of Health letter dated 23rd May 2007

Date of paper

19th June 2007

STATUTORY INSTRUMENTS

2007 No. 000

PROFESSIONAL QUALIFICATIONS

**The Migrant Clinical Psychologists from the European
Economic Area or Switzerland Regulations 2007**

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|-------------------------------|------------------|
| <i>Made</i> - - - - | <i>July 2007</i> |
| <i>Laid before Parliament</i> | <i>July 2007</i> |
| <i>Coming into force</i> - - | <i>July 2007</i> |

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

She is a Minister designated for the purposes of section 2(2) in relation to the recognition of higher-education diplomas, formal qualifications, or experience in the occupation, required for the pursuit of professions or occupations(b).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Migrant Clinical Psychologists from the European Economic Area or Switzerland Regulations 2007 and shall come into force on XX July 2007.

(2) In these Regulations, “the First General System Regulations” means the European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005(c).

Amendment of regulation 4

2. In regulation 4 (designated bodies)—

(a) in paragraph (1), before “The designated authority” insert “Subject to paragraph (1A),”;
and

(b) after paragraph (1) insert the following paragraph—

“(1A) Where more than one body or authority is specified in Schedule 1 in relation to a regulated profession, each body or authority specified is only the designated body in relation to that profession for the purposes specified in that Schedule.”

New regulation 12A

3. After regulation 12 insert—

(a) 1972 c.68.
(b) S.I. 2002/248.
(c) S.I. 2005/18.

“Provisions for clinical psychologists

12A.—(1) Subject to paragraph (5), the Health Professions Council(**a**) is the designated body in relation to clinical psychologists for the purposes of—

- (a) considering applications from migrants wishing to practise as a clinical psychologist in the United Kingdom; and
- (b) granting authorisations to migrants to practise as a clinical psychologist in the United Kingdom.

(2) Where the Health Professions Council decides to authorise a migrant to practise as a clinical psychologist in accordance with these Regulations, it shall issue a direction to the British Psychological Society(**b**) requiring it to—

- (a) enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology; and
- (b) issue the migrant with a practising certificate in respect of clinical psychology.

(3) The British Psychological Society (and accordingly its staff) must comply with any direction issued to it under paragraph (2).

(4) The British Psychological Society may not—

- (a) remove or suspend from its register a migrant whom it has included as a consequence of a direction issued under paragraph (3)(a), or attach any condition or limitation to his registration; or
- (b) rescind a practising certificate issued as a consequence of a direction issued under paragraph (3)(b), or attach any condition or limitation in relation to the certificate,

on grounds of inadequate qualification, training or experience, or non payment of fees, without the agreement of the Health Professions Council.

(5) For the purposes of regulation 9(2), (3) and (5) to (7), it is the fitness to practise, standing and insurance requirements of the British Psychological Society that are the applicable requirements, but it is for the Health Professions Council determine the acceptability or otherwise of the evidence or certificates submitted and to provide where appropriate an equivalent form of oath or declaration.

(6) The Health Professions Council and the British Psychological Society shall co-operate with each other in order to ensure that each is able to perform its functions with regard to the regulation of clinical psychologists effectively.

(7) For the purposes of paragraph (6), the Health Professions Council and the British Psychological Society may disclose to each other any information in its possession or control which it reasonably considers it should share with the other.

(8) The Health Professions Council may require a migrant to pay a fee in respect of making an application to it for authorisation to practise as a clinical psychologist.

(9) The amount of the fee referred to in paragraph (8) shall be the same as the fee payable by a migrant who makes an application to the Health Professions Council for authorisation to practise as a clinical scientist.”

Substitution of designated authority

4. In Part 1 of Schedule 1 to the First General System Regulations (professions regulated by law or public authority) for “The British Psychological Society” substitute “Health Professions Council for the purposes of the performance of the functions conferred on it by virtue of regulation 12A, read with regulations 5 to 9, 13 and 14, and the British Psychological Society for all other purposes”.

(a) The Health Professions Council is at Park House, 184 Kennington Park Road, London SE11 4BU.

(b) The British Psychological Society is at St Andrews House, 48 Princes Road East, Leicester, LW1 7DR.

Transitional provision: outstanding applications

5.—(1) This paragraph applies to a migrant who has applied to the British Psychological Society for authorisation to practise as a clinical psychologist under the First General System Regulations but whose application has not been determined prior to the coming into force of these Regulations.

(2) Where paragraph (1) applies, the British Psychological Society shall—

- (a) pass to the Health Professions Council the application and any related documentation that the Society has in its possession or controls (and the Council does not) that may be relevant to the determination of the application; and
- (b) the Health Professions Council shall determine the application in accordance with, and within the time limit specified in regulation 13(1) of, the First General System Regulations (decisions of designated authorities and appeals).

Transitional provision: adaptation periods

6.—(1) Subject to paragraph (2), where, prior to the coming into force of these Regulations, the British Psychological Society has imposed a requirement on a migrant who has made an application to be authorised to practise as a clinical psychologist to complete an adaptation period pursuant to regulation 6(1) of the First General Systems Regulations (professional experience, adaptation periods and aptitude tests), and—

- (a) the adaptation period is still on going;
- (b) the adaptation period has come to an end but the migrant's performance during the period has not been assessed by the British Psychological Society; or
- (c) the adaptation period has come to an end and the migrant's performance during the period has been assessed by the British Psychological Society, but a decision has not been taken on whether or not the migrant has completed the adaptation period successfully,

the Health Professions Council shall assess the migrant's performance during the adaptation period (for which it may charge a reasonable fee).

(2) The Health Professions Council is not required to assess the migrant's performance under paragraph (1) where the adaptation period was completed more than six months prior to the coming into force of these Regulations (the British Psychological Society shall conclude its assessment of that adaptation period, and if it is a successful assessment, register the migrant).

(3) The British Psychological Society and the migrant shall provide the Health Professions Council with any information that is in their possession or control, or which they could reasonably be expected to obtain, and that is requested by the Council to enable it to assess the adaptation period.

(4) Following an assessment under paragraph (1), the Health Professions Council shall do one of the following—

- (a) issue a direction to the British Psychological Society requiring it to—
 - (i) enter the name of the migrant in the register maintained by the Society that in which entry is required for holders of practising certificates in respect of clinical psychology, and
 - (ii) issue the migrant with a practising certificate in respect of clinical psychology;
- (b) require the migrant to undergo further training during the adaptation period (or that period as extended by agreement); or
- (c) inform the migrant in writing that he has failed to complete the adaptation period successfully.

(5) Where paragraph (4)(b) applies, the Health Professions Council shall assess the performance of the migrant during the adaptation period (for which it may charge a reasonable fee) and shall then do one of the following—

- (a) issue a direction to the British Psychological Society requiring it to—

- (i) enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and
 - (ii) issue the migrant with a practising certificate; or
 - (b) inform the migrant in writing that he has failed to complete the adaptation period successfully.
- (6) The British Psychological Society (and accordingly its staff) must comply with any direction issued to it under paragraph (4)(a) or (5)(a).
- (7) A migrant may appeal against any decision of the Health Professions Council under paragraph (4) or (5) that is adverse to him to the relevant appeal body specified in paragraph 2 of Schedule 4 to the First General System Regulations within the period of three months beginning with the date of the notification by the Health Professions Council of its decision.
- (8) The appeal body may (in addition to any other powers it may have to dispose of appeals)—
- (a) issue to the British Psychological Society such directions as it considers appropriate, including directions requiring it—
 - (i) to enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and
 - (ii) to issue the migrant with a practising certificate; or
 - (b) remit the matter to the Health Professions Council which such directions as the appeal body sees fit.
- (9) The British Psychological Society and the Health Professions Council (and accordingly their staff) must comply with any direction issued to them under paragraph (8).
- (10) If a migrant who has been assessed in accordance with this regulation—
- (a) has failed to complete an adaptation period successfully; and
 - (b) wishes to revise his choice under regulation 6(2) of the First General System Regulation and choose to take an aptitude test,
- he must first make a new application to be authorised to practise as a clinical psychologist to the Health Profession Council, but the Council may rely on evidence obtained during the course of considering his original application when considering the new application.

Transitional provision: aptitude tests

- 7.—(1) Where, prior to the coming into force of these Regulations—
- (a) the British Psychological Society has imposed a requirement on a migrant who has made an application to be authorised to practise as a clinical psychologist to pass an aptitude test pursuant to regulation 6(1) of the First General System Regulations (professional experience, adaptation periods and aptitude tests); and
 - (b) the migrant has taken the test, but the test has not been marked by the Society or it has been marked but the result has not been communicated to the migrant,
- the test (and the result if applicable) shall be passed to the Health Professions Council for marking.
- (2) On receipt of the test (and the result if available), the Health Professions Council shall—
- (a) shall—
 - (i) if the test has not been marked, mark the test, and
 - (ii) communicate the result of the test to the migrant; and
 - (b) may, if the migrant has passed the test, issue a direction to the British Psychological Society requiring it to—
 - (i) enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology; and

(ii) issue the migrant with a practising certificate.

(3) The British Psychological Society (and accordingly its staff) must comply with any direction issued to it under paragraph (2).

(4) A migrant may appeal against any decision communicated to him by the Health Professions Council under paragraph (2)(a)(ii) which is averse to him, or any decision of the Health Professions Council under paragraph (2)(b) which is averse to him, to the relevant appeal body specified in paragraph 2 of Schedule 4 to the First General System Regulations within the period of three months beginning with the date of the communication or the notification by the Health Professions Council of its decision.

(5) The appeal body may (in addition to any other powers it may have to dispose of appeals)—

(a) issue to the British Psychological Society such directions as it considers appropriate, including directions requiring it—

(i) to enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and

(ii) to issue the migrant with a practising certificate; or

(b) remit the matter to the Health Professions Council which such directions as the appeal body sees fit.

(6) The British Psychological Society and the Health Professions Council (and accordingly their staff) must comply with any direction issued to them under paragraph (5).

(7) If a migrant who has been assessed in accordance with this regulation—

(a) has failed to pass an aptitude test; and

(b) wishes to revise his choice under regulation 6(2) of the First General System Regulation and choose to complete an adaptation period,

he must first make a new application to be authorised to practise as a clinical psychologist to the Health Profession Council, but the Council may rely on evidence obtained during the course of considering his original application when considering the new application.

Transitional provision: appeals

8.—(1) Where a migrant has appealed against a decision, in terms, to refuse to grant an authorisation to practise as a clinical psychologist in the United Kingdom to the Council or a committee or employee of the British Psychological Society—

(a) the Society shall pass the matter and any related documentation that the Society has in its possession or controls (and the Council does not) that may be relevant to the determination of the matter to the Health Professions Council; and

(b) the Health Professions Council shall determine the matter in such manner as it considers just, and may issue to the British Psychological Society such directions as it considers appropriate, including directions requiring it—

(i) to enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and

(ii) to issue the migrant with a practising certificate.

(2) Any appeal against the British Psychological Society to an appeal body specified in paragraph 2 of Schedule 4 to the First General System Regulations which is outstanding on the coming into force of these Regulations, including an appeal which is brought after the coming into force of these Regulations to such a body within the periods permitted for bringing appeals in regulation 13(4) of those Regulations, shall be continued against the Society.

(3) Where paragraph (2) applies, the appeal body may—

(a) apply regulation 13(5) in that case subject to such modifications as it considers appropriate in the particular circumstances of the case; and

- (b) in addition to any other powers it may have to dispose of appeals—
 - (i) issue to the British Psychological Society such directions as it considers appropriate, including directions requiring it—
 - (aa) to enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and
 - (bb) to issue the migrant with a practising certificate; or
 - (ii) remit the matter to the Health Professions Council which such directions as the appeal body sees fit.

(4) The British Psychological Society and the Health Professions Council (and accordingly their staff) must comply with any direction issued to them under paragraph (1) or (3).

Fees paid to the British Psychological Society

9. Where—

- (a) a migrant has paid any fee to the British Psychological Society which relates to an application for authorisation to practise as a clinical psychologist in the United Kingdom, including a fee for having an application considered, an adaptation period assessed or aptitude test marked;
- (b) the migrant has also paid a fee under regulation 12A(8) of the First General System Regulations or regulation 6(1) of these Regulations; and
- (c) the Health Professions Council issues a direction to the Health Professions Council under these Regulations or the First General System Regulations requiring it to—
 - (i) enter the name of the migrant in the register maintained by the Society in which entry is required for holders of practising certificates in respect of clinical psychology, and
 - (ii) issue the migrant with a practising certificate in respect of clinical psychology,
 the migrant may recover the amount of that fee from the Society has a civil debt.

Signed by authority of the Secretary of State for Health

Hunt
Minister of State
Department of Health

July 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain measures for the implementation of Council Directive 89/48/EEC on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration^(a) (“the Directive”). The measures relate to migrants from the European Economic Area or Switzerland who are clinical psychologists seeking authorisations to practise in the United Kingdom.

These Regulations amend and supplement the measures for implementing the Directive that are set out in the European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005 (“the 2005 Regulations”). Regulation 2 amends regulation 4 of the 2005 Regulations so as to allow for more than one body to be designated as the body or authority in relation to a particular profession. Regulation 4 amends the designation for clinical psychologists so that the role of designated body is shared between the Health Professions Council and the British Psychological Society.

(a) OJ No. L 19, 24.1.1989, p.16. This Directive has been amended by Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1).

The responsibilities of the Health Professions Council are set out in the new regulation 12A of the 2005 Regulations, inserted by regulation 3. In summary, the Health Professions Council is given responsibility for considering applications from, and granting authorisations to, migrant clinical psychologists from the European Economic Area or Switzerland, and carrying out certain related functions. Where it decides to grant an authorisation, the Health Professions Council directs the British Psychological Society to register the migrant and grant him a practising certificate.

Regulations 5 to 8 contain transitional arrangements for migrant clinical psychologists who are already part way through the authorisation process. Generally, unfinished cases are to be transferred to the Health Professions Council. Regulation 9 contains a provision which allows successful applicants to recover some fees related to the authorisation process that they have paid to the British Psychological Society, where it has also paid fees to the Health Profession Council.

Appendix 2

23 May 2007

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Dear Anna

Competent Authority for Clinical Psychology under EU Directive 89/48

I am writing formally to let you know that the Department has written to Professor Pam Maras, President of the British Psychological Society, on 10 May 2007 informing her of the Government's decision to de-designate BPS as UK competent authority under the above Directive for clinical psychology. It is our intention to designate the Health Profession Council as the UK competent authority.

We have reached this conclusion in order to avoid potentially damaging infraction proceedings by the European Commission against the UK Government for failure to comply with the provisions of the Directive.

The Government will now move swiftly to de-designate BPS as the competent authority for recognition of clinical psychology qualifications under Directive 89/48/EEC. This course of action has been agreed with both DH and DfES Ministers. We propose to do this by asking DfES to amend SI 2005/18 Schedule 1 and to substitute the Health Professions Council (HPC) for the BPS, thereby transferring this function to the HPC forthwith. The amending SI is in preparation and will include three provisions:

- the de-designation of BPS and substitution of HPC as the UK competent authority for clinical psychologists;
- a provision relating to registration by BPS of those EEA clinical psychologists assessed by HPC as meeting UK standards of proficiency and issued with a statement of equivalence;
- transitional provisions relating to candidates who may already have applied for assessment for work in the UK.

It is intended that the amending SI will be in force in June. We will keep you informed of its progress.

In order to perform this function the HPC will require BPS's standards of competence. We have asked the BPS to make their standards available to you immediately, but they are available in the form of a benchmark statement for

clinical psychology developed by a BPS-led working party and published by the Quality Assurance Agency on its website.

Officials at both the Department of Health and DfES stand ready to provide any advice and assistance you may need in taking over this function. We will provide you with the date of transfer as soon as possible but you should plan to take over the function around June 2007. I am copying this letter to Tim Cornford at BPS and Carol Rowlands at DfES.

Yours sincerely

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New Regulation Projects Manager

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