

## CHAPTER 12

### RECOGNITION OF PROFESSIONAL QUALIFICATIONS

#### ARTICLE 12.1

##### *Definitions*

1. For the purposes of this Chapter:
  - (a) “adaptation period” means a period of supervised practice, subject to an assessment and possibly accompanied by further training, of a regulated profession in the host jurisdiction under the responsibility of a qualified member of that profession;
  - (b) “aptitude test” means a test limited to the professional knowledge of professionals, made by the relevant authorities of the host jurisdiction with the aim of assessing the ability of the professional to pursue a regulated profession in that jurisdiction;
  - (c) “compensatory measures” means an adaptation period or an aptitude test;
  - (d) “evidence of formal qualifications” means diplomas, certificates and other evidence issued by an authority in the jurisdiction of one of the Parties and certifying successful completion of professional training obtained mainly in that jurisdiction;
  - (e) “home jurisdiction” means the jurisdiction of the Party in which the professional qualifications were obtained;
  - (f) “host jurisdiction” means the jurisdiction of the Party in which a professional wants to access and pursue a regulated profession;
  - (g) “measure” means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement, practice or in any other form<sup>75</sup>;
  - (h) “measures of a Party” means measures adopted or maintained by:
    - (i) central, regional or local governments or authorities; and
    - (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

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<sup>75</sup> For greater certainty, the term “measure” includes failures to act

- (i) “profession” means an occupation or trade, or any subdivision of, or distinct specialism within, a profession;
- (j) “professional” means a natural person who has obtained their professional qualifications in one of the Parties and seeks to access and pursue a regulated profession in a host jurisdiction;
- (k) “professional activity” means an activity which forms part of a regulated profession;
- (l) “professional experience” means the lawful and effective practice of the relevant profession;
- (m) “professional qualifications” means qualifications attested by evidence of formal qualifications or professional experience;
- (n) “regulated profession” means a profession, the practice of which, including the use of a title or designation, is subject to the possession of specific professional qualifications by virtue of a measure of a Party; and
- (o) “relevant authority” means an authority or body, designated pursuant to a measure of a Party to recognise qualifications and authorise the practice of a regulated profession in a jurisdiction.

## ARTICLE 12.2

### ***Objectives and Scope***

1. This Chapter establishes a framework to facilitate a transparent and consistent regime for the recognition of professional qualifications by the Parties. This Chapter applies where:
  - (a) a professional with a professional qualification obtained in the United Kingdom makes an application to a relevant authority in Iceland, Liechtenstein or Norway for permission to access and pursue a regulated profession; or
  - (b) a professional with a professional qualification obtained in Iceland, Liechtenstein or Norway makes an application to a relevant authority in the United Kingdom for permission to access and pursue a regulated profession.
2. For the avoidance of doubt, this Chapter applies where the profession is regulated both in the home and host jurisdictions, and equally where the profession is only regulated in the host jurisdiction.

## ARTICLE 12.3

### ***Domestic Regulation***

Any specific provisions in this Chapter shall prevail over the provisions of the Sub-Sections 3.5.1 (Domestic Regulation) and 3.5.2 (Provisions of General Application) of Chapter 3 (Services and Investment) to the extent necessary to give effect to the specific provision.

## ARTICLE 12.4

### ***Recognition of Professional Qualifications***

1. Subject to Article 12.5 (Conditions for Recognition), recognition of a professional's professional qualifications by the host jurisdiction shall permit access to and the pursuit of the regulated profession in that jurisdiction by that professional<sup>76</sup>.
2. Upon recognition, the host jurisdiction shall accord treatment no less favourable in respect of access to or pursuit of the regulated profession to that professional than that it accords, in like situations, to natural persons who have obtained their qualifications in the host jurisdiction.
3. Each Party shall adopt, where applicable, and maintain the necessary measures that require relevant authorities to establish or operate a system for recognition which complies with Articles 12.5 (Conditions for Recognition) to 12.11 (Fees).
4. The measures referred to in paragraph 3 shall have effect on each Party upon its notification to the other Parties that its internal requirements to implement them are in place. Each Party shall use its best endeavours to have in effect the measures referred to in paragraph 3 and to have provided such notification within 24 months of the date of entry into force of the Agreement. A Party that is unable to provide such notification within this period shall report to the Sub-Committee on Services and Investment.

## ARTICLE 12.5:

### ***Conditions for Recognition***

1. If access to or pursuit of a regulated profession in the host jurisdiction is contingent upon possession of specific professional qualifications, the

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<sup>76</sup> The Parties understand that the provisions of this Chapter are without prejudice to any provisions on market access or movement of natural persons, and only regulate issues relating to recognition of professional qualifications. The Parties also understand that this Chapter applies notwithstanding the legal grounds for which the right to access and pursue the regulated profession in the host Party are based on.

relevant authority shall recognise the professional qualifications of a professional who applies for recognition in the host jurisdiction and possesses comparable professional qualifications for the same profession in the home jurisdiction.<sup>77</sup>

2. A relevant authority may only refuse to recognise professional qualifications for the same profession where Conditions 1, 2, 3 or 4 are met.
3. Condition 1 is met where:
  - (a) there exists a substantial difference between the professional's professional qualifications and the essential knowledge or skills required to practise the profession in the host jurisdiction; and
  - (b) the professional fails, or refuses to take, an aptitude test or an adaptation period under Article 12.6 (Compensatory Measures).
4. Condition 2 is met where:
  - (a) the regulated profession in the host jurisdiction comprises one or more professional activities that cover substantially different matters from those covered by the professional's professional qualifications; and
  - (b) the professional fails, or refuses to take, an aptitude test or an adaptation period under Article 12.6 (Compensatory Measures).
5. Condition 3 is met where requiring the professional to take an aptitude test or to complete an adaptation period under Article 12.6 (Compensatory Measures) would amount to requiring the professional to acquire the professional qualifications required to practise the regulated profession in the host jurisdiction.
6. Condition 4 is met where access to and pursuit of a regulated profession by a natural person whose professional qualifications were obtained in the host jurisdiction is subject to conditions other than the possession of specific professional qualifications and the professional fails to meet those conditions.

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<sup>77</sup> Iceland, Liechtenstein and Norway observe that they are, pursuant to the EEA Agreement, obliged to respect the minimum training conditions for some professions harmonised in the EEA Agreement. For these professions and for the purposes of this Article, a professional's qualifications will only be recognised by Iceland, Liechtenstein and Norway where the professional satisfies those minimum training conditions on application or by, pursuant to Article 12.6 (Compensatory Measures), passing compensatory measures.

## ARTICLE 12.6

### ***Compensatory Measures***

1. A relevant authority may require a professional to take an aptitude test, standardised or otherwise, or to complete an adaptation period where:
  - (a) there exists a substantial difference between the professional's professional qualifications and the essential knowledge or skills required to practise the regulated profession in the host jurisdiction; or
  - (b) the regulated profession in the host jurisdiction comprises one or more professional activities that cover substantially different matters from those covered by the professional's professional qualifications.
2. The relevant authority may decide between an adaptation period or an aptitude test.
3. Relevant authorities are encouraged to apply compensatory measures in a manner proportionate to the difference they seek to address.
4. To the extent possible and at the professional's request, relevant authorities shall provide their reasons for requiring that professional to undertake compensatory measures in writing.
5. Each Party shall ensure that, where a relevant authority requires the professional to take an aptitude test, that relevant authority schedules aptitude tests with reasonable frequency and at least once a year, where applicable.

## ARTICLE 12.7

### ***Procedure for Applications***

1. The relevant authority shall:
  - (a) acknowledge receipt of the professional's application within one month of receipt and inform the professional of any missing document;
  - (b) grant the professional adequate time to complete the requirements and procedures of the application process;
  - (c) deal promptly with the professional's application; and
  - (d) issue a decision no later than four months after the date on which the complete application was submitted.

2. The relevant authority may require the professional to provide evidence of professional qualifications. The evidence requested shall be no more than is necessary to demonstrate that the professional holds comparable professional qualifications.
3. Where access to and pursuit of a regulated profession by a natural person whose professional qualifications were obtained in the host jurisdiction is subject to conditions other than the possession of specific professional qualifications, the relevant authority may require the professional to provide evidence that they satisfy those conditions. The evidence that is requested shall be no more than is necessary to demonstrate that the professional satisfies those conditions.
4. A relevant authority shall accept copies of documents that are authenticated in accordance with the Party's domestic law in place of original documents, unless the relevant authority requires original documents to protect the integrity of the recognition process.
5. The relevant authority<sup>78</sup> of the host jurisdiction and of the home jurisdiction shall work in close collaboration and shall exchange information to facilitate the professional's application, where applicable.
6. Where applicable, the relevant authority<sup>79</sup> of the host jurisdiction and of the home jurisdiction shall, notwithstanding any duty of confidentiality, exchange information regarding disciplinary action taken or criminal sanctions imposed or any other serious, specific circumstances which are likely to have consequences for the pursuit of the regulated professions by the professional. The Parties acknowledge that this is particularly important for the following professionals:
  - (a) health professionals exercising activities that have patient safety implications; and
  - (b) professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a profession regulated in that Party.

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<sup>78</sup> For the purposes of this paragraph, in Iceland, Liechtenstein and Norway, authorities other than those falling within the definition of "relevant authority" under subparagraph 1(o) Article 12.1 (Definitions) may be involved in the governance of regulated professions. In the case of such involvement of other authorities in Iceland, Liechtenstein or Norway, the Parties agree that information shall be exchanged between those authorities and the relevant authorities of another Party, where applicable, for compliance with this paragraph.

<sup>79</sup> For the purposes of this paragraph, in Iceland, Liechtenstein and Norway, authorities other than those falling within the definition of "relevant authority" under subparagraph 1(o) Article 12.1 (Definitions) may be involved in the governance of regulated professions. In the case of such involvement of other authorities in Iceland, Liechtenstein or Norway, the Parties agree that information shall be exchanged between those authorities and the relevant authorities of another Party, where applicable, for compliance with this paragraph.

7. Any exchange of information between relevant authorities pursuant to this Article shall be subject to the data protection law of each of the Parties.<sup>80</sup>

#### ARTICLE 12.8

##### *Licensing and Other Provisions*

1. The relevant authority shall make available to professionals information about the professional qualifications required to practise the regulated profession.
2. The relevant authority shall make available to professionals information that explains any other conditions that apply to the practice of the regulated profession including:
  - (a) where a licence to practise is required, the conditions under which a licence is obtained following the determination of eligibility and what that licence entails;
  - (b) membership of a professional body;
  - (c) use of professional or academic titles;
  - (d) having an office address, maintaining an establishment or being a resident;
  - (e) language skills;
  - (f) proof of good character;
  - (g) professional indemnity insurance;
  - (h) compliance with the host jurisdiction's requirements for the use of trade or firm names; and
  - (i) compliance with the host jurisdiction's ethics, for example, independence and good conduct.
3. The relevant authority shall make available to professionals information about:
  - (a) the relevant laws to be applied regarding, for example, disciplinary action, financial responsibility or liability;

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<sup>80</sup> The Parties understand that the obligation under this paragraph extends to any other authorities working in collaboration or exchanging information for the purposes of paragraphs 5 and 6.

- (b) the principles of discipline and enforcement of professional standards, including disciplinary jurisdiction and any consequential effects on practising professional activities;
  - (c) the process and procedures for the ongoing verification of competence; and
  - (d) the criteria for, and procedures relating to, revocation of the registration.
- 4. The relevant authority shall make available to professionals information about:
  - (a) the documentation required of professionals and the form in which it should be presented; and
  - (b) the acceptance of documents and certificates issued in relation to professional qualifications and other conditions that apply to the practice of the regulated profession.
- 5. The relevant authority shall deal promptly with enquiries from professionals about the professional qualifications required to practise the regulated profession and any other conditions that apply to the practice of the regulated profession.

#### ARTICLE 12.9

##### ***Knowledge of Languages***

Relevant authorities may require that professionals demonstrate they possess the language skills necessary to the practice of the relevant profession. If the regulated profession has patient safety implications, language skills may be controlled. Any language test shall be proportionate to the activity to be pursued.

#### ARTICLE 12.10

##### ***Appeals***

Each Party shall adopt measures granting professionals a right of appeal against:

- (a) a relevant authority's decision to refuse a professional's access to and pursuit of the regulated profession; and
- (b) a relevant authority's failure to make a decision about a professional's access to and pursuit of the regulated profession.

## ARTICLE 12.11

### ***Fees***

Each Party shall ensure fees charged by its relevant authorities in relation to measures under paragraph 3 of Article 12.4 (Recognition of Professional Qualifications) are:

- (a) reasonable and proportionate to the cost of the professional's application;
- (b) transparent, including in relation to fee structures, and made public in advance; and
- (c) payable by electronic means through the relevant authority's own website.

## ARTICLE 12.12

### ***Implementation of this Chapter by the Sub-Committee on Services and Investment***

1. The Sub-Committee on Services and Investment, established under Article 3.3 (Sub-Committee on Services and Investment) of Chapter 3 (Services and Investment), shall be responsible for the effective implementation and operation of this Chapter.
2. The Parties may decide to invite representatives of relevant entities other than the Parties, including representatives of relevant authorities, having the necessary expertise relevant to the issues to be discussed, to attend meetings of the Sub-Committee on Services and Investment.
3. The Sub-Committee on Services and Investment shall have the following functions:
  - (a) reporting to the Joint Committee, established under Article 15.1 (Joint Committee) of Chapter 15 (Institutional Provisions), as required;
  - (b) reviewing and monitoring the implementation and operation of this Chapter, including having regard to how relevant authorities apply the measures adopted under this Chapter;
  - (c) identifying areas for improvement in the implementation and operation of this Chapter;
  - (d) exchanging information on any matters relating to this Chapter, including facilitating the sharing of good practice on the implementation and operation of this Chapter between the Parties;

- (e) issuing guidance to the Parties on best practices in relation to the implementation and operation of this Chapter;
  - (f) formulating recommendations which it considers necessary for the effective implementation and operation of this Chapter. These recommendations shall be made to the Joint Committee, which may, in turn, decide to adopt those recommendations;
  - (g) developing guidelines for the development of the mutual recognition arrangements referred to in Article 12.13 (Establishment of Mutual Recognition Arrangements);
  - (h) discussing issues related to this Chapter and other issues relevant to the recognition of professional qualifications; and
  - (i) carrying out any other functions delegated to it by the Joint Committee.
4. The Parties shall have regard to any guidance issued by the Sub-Committee on Services and Investment in accordance with paragraph 3.

#### ARTICLE 12.13

##### *Establishment of Mutual Recognition Arrangements*

1. The United Kingdom, on the one hand, and Iceland, Liechtenstein and Norway, acting together or independently, on the other hand<sup>81</sup>, may establish mutual recognition arrangements (MRAs) to facilitate recognition of professional qualifications.
2. A MRA may build on the provisions of this Chapter. A MRA may provide for partial access to a profession, and recognition may be conditional upon completing any compensatory measures.
3. The Parties may agree to use the Sub-Committee on Services and Investment to facilitate discussions on MRAs.
4. The Parties may agree by consensus that a MRA established pursuant to this Article shall be considered to form an integral part of this Agreement<sup>82</sup>, by means of an Annex or otherwise.

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<sup>81</sup> For the purposes of this Article, MRAs may be concluded between the Parties or between their relevant authorities, in accordance with each Party's domestic law.

<sup>82</sup> For the avoidance of doubt, notwithstanding that agreement, the MRA shall only bind the parties thereto.