Mutual Recognition- Application of the EU Directive

During the meeting of the Institute and Faculty of Actuaries (IFoA) Regulation Board international Committee on 8 May 2015, it was agreed that the position regarding the application of the EU Directive on Mutual Recognition to the IFoA should be confirmed. This is the legislation, along with its mirror UK legislation, which now applies to assist us in interpreting the AAE (formerly GC) MRA.

The UK has adopted the 2005 Directive in the form of the European Communities (Recognition of Professional Qualifications) Regulations 2007 (UK Regulations) (with effect from 19 October 2007). According to Regulations 4 and 6 of the UK Regulations, the profession of actuary in the UK is a "regulated profession" and the Institute and Faculty of Actuaries (IFoA) is a "competent authority". The IFoA is therefore required to comply with the UK Regulations and the Directive.
The IFoA has recently received correspondence (attached) from the Department of Business Innovation and Skills which highlights that the IFoA may need to review the procedures it has in place for EU actuaries. An analysis of the requirements and the IFoA's current processes has therefore been initiated to ascertain what further action needs to be taken to ensure compliance.

The Committee noted the letter that had been received from the Department for Business, Innovation and Skills. It was clarified that the letter should be dated 27 March 2015 instead of 27 March 2013.

The Committee noted that the EU Directive did apply to the IFoA and that further work was being carried out by the Executive to ensure that the IFoA makes sure the current mutual recognition arrangements meet the requirements of the Directive.

The IFoA committee noted that it may be helpful to discuss the issue of compliance with the Mutual Recognition Directive with the other members of the AAE. The officers of the AAE considered this in July and agreed the topic should be raised at this committee's meeting in October. There are a number of associations in countries in the EU which had been specifically designated as a competent authority who had the same standards of qualifications as the IFoA.

The countries which have actuarial associations that have been recognised as competent authorities by the EU are: Italy, Denmark, Poland, Slovakia and Spain. Further information can be found here: http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?action=profession&id_profession=5190

David Martin

September 2015

Department
for Business
Innovation & Skills

1 Victoria Street
London
SW1H 0ET

T +44 (0) 20 7215 5000
E enquiries@bis.gov.uk

www.gov.uk/bis

Mr Derek Cribb
Chief Executive
Institute and Faculty of Actuaries
7th Floor, Holborn Gate
326-330 High Holborn
London
WC1C 7PP

27 March 201~~3~~5

Dear Mr Cribb,

I am writing to you in regard to your role as a competent authority under the Mutual Recognition of Professional Qualifications (MRPQ) Directive 2005/36/EC, regarding the UK's National Action Plan on access to professions.

The Government welcomed agreement of the revised MRPQ directive in [March 2013] as a significant step forward in facilitating cross-border movement of professionals, making it quicker and easier to have professional qualifications recognised. This will support UK professionals to export their services to other countries in the EU and open up our markets to competition, to the benefit of UK consumers and citizens.

To continue progress on this agenda, the Directive includes a process for all Member States to review and evaluate all their requirements restricting access to their professions (the 'transparency' initiative under Article 59 – see Annex I). In effect, this means reviewing the regulatory regime of each of our professions, in particular qualification requirements and any legal form and shareholding requirements. If the requirements are not compatible with the principles set out in the Directive and EU single market rules, they are expected to be amended or removed. Where there continue to be restrictions which are not justified, the Commission can initiate infraction proceedings.

Our first National Action Plan is due by January 2016, setting out how we have met our obligations. It is important that we ensure that the UK's report shows that we have undertaken a robust process of review and evaluation; and where necessary, we have removed (or plan to remove) restrictions. As a relevant competent authority, your organisation will need to contribute to the review. I am therefore asking you to provide information about the nature and type of regulation that is relevant to the professions that you are responsible for, including:

- What are the requirements that a service provider has to meet to access the profession in your area, including any relevant licenses, authorisations and processes. In particular, we would like information on any relevant legal form and shareholding requirements.

- An explanation of how and why these requirements are necessary and proportionate, in line with the principles in the MRPQ directive and single market rules.

- Actions that you are undertaking both now and in the future to make it easier to access the profession, including service providers from other EU countries, while maintaining adequate protections where strictly necessary.

- How you are engaging with your counterparts across the EU to cooperate on facilitating cross-border movement of professionals. There are a number of mechanisms under the MRPQ (the European Professional Card, Common Training Frameworks and Common Training Tests) that are demand-led by groups of MS competent authorities. We are keen to encourage greater uptake of these mechanisms and should be leading these groups to ensure that the UK plays a key role in negotiations.

In order to assemble the repost, we would be grateful for your response by end of June. Please send your responses to national-action-plan@bis.gsi.gov.uk.

We will review your responses over the summer and autumn and develop findings in time for our final action plan to be submitted in 2016. We will keep you engaged throughout the process.

My official, Francesca Horn (francesca.horn@bis.gsi.gov.uk) is available to talk you through any of the questions above as well as the requirements of the MRPQ Directive and provide copies of the draft National Action Plan if required.

Thank you for your co-operation.

VINCE CABLE

Secretary of State for Business, Innovation and Skills

Annex I: Transparency Initiative [Article 59] set out in MRPQ Directive 2005/36/EC

Member States shall examine whether requirements under their legal system restricting the access to a profession or its pursuit to the holders of a specific professional qualification, including the use of professional titles and the professional activities allowed under such title, referred to in this Article as 'requirements' are compatible with the following principles:

a) *requirements must be neither directly nor indirectly discriminatory on the basis of nationality or residence;*

b) *requirements must be justified by overriding reasons of general interest;*

c) *requirements must be suitable for securing the attainment of the objective pursued and must not go beyond what is necessary to attain that objective.*