

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3689 of 11 December, 2008

LEGAL NOTICE NO. 99 OF 2008.

INTERPRETATION AND GENERAL CLAUSES ACT

HEALTHCARE PROFESSIONS (BULGARIA AND ROMANIA QUALIFICATIONS) REGULATIONS 2008

In exercise of the powers conferred on it by section 23(g) of the Interpretation and General Clauses Act, and of all other enabling powers, and for the purpose of transposing Parts III.1, III.2, III.3, III.5, III.6 and Part V of the Annex to Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Healthcare Professions (Bulgaria and Romania Qualifications) Regulations 2008 and shall be deemed to have come into operation on 1 January 2007.

Interpretation.

2. All references in these Regulations to “the Act” are references to the Medical and Health Act 1997, and all references to “sections” and to “Schedules” are to sections and Schedules within that Act.

Amendment to section 2.

3. In subsection (1) of section 2, the definition of the term “Medical Directive” is replaced by the following definition—

““Medical Directive” means Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications, as amended from time to time and as adapted by the EEA Agreement;”.

Amendment to section 32.

4. In Section 32 for subsection (4), substitute—

“(4) In this Part, in Schedule 9 and, in so far as relevant, Schedule 10—

- (a) “the First Nursing Directive” means Council Directive 77/452/EEC, concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of nurses responsible for general care, as amended from time to time and as adapted by the EEA Agreement;
- (b) “the Second Nursing Directive” means Council Directive 77/453/EEC concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of nurses responsible for general care, as amended from time to time and as adapted by the EEA Agreement;
- (c) “the First Midwifery Directive” means Council Directive 80/154/EEC, concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications in midwifery as amended from time to time and as adapted by the EEA Agreement;
- (d) “the Second Midwifery Directive” means Council Directive 80/155/EEC, concerning the coordination of provisions laid down by law, regulation or administrative action relating to the taking up and pursuit of the activities of midwives, as amended from time to time and as adapted by the EEA Agreement.”.

Amendments to Schedule 3.

5. Schedule 3 shall be amended as follows—

- (a) in the Table in Part I (Primary European Medical Qualifications), the following is inserted between the entries for Belgium and Cyprus—

BULGARIA	Диплома за висше образование на образователно-квалификационна степен “магистър” по “Медицина” и професионална квалификация “Магистър-лекар”	Медицински факултет във Висше медицинско училище (Медиц-ински университет, Висш медицински институт в Република България)
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- (b) in the Table in Part I (Primary European Medical Qualifications), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Diplomă de licență de doctor medic	Universități
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- (c) in the Table in Part IA (European Qualifications in General Medical Practice), the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Свидетелство за призната специалност по Обща медицина	Лекар-специалист по Обща медицина
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- (d) in the Table in Part IA (European Qualifications in General Medical Practice), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Certificat de medic specialist medicină de familie	Medic specialist medicină de familie
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- (e) in the Table in Part II (Recognised Medical Specialisations), the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Свидетелство за призната специалност	Медицински университет, Висш медицински институт или Военномедицинска академия
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- (f) in the Table in Part II (Recognised Medical Specialisations), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Certificat de medic specialist	Ministerul Sănătății Publici
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- (g) in sub-paragraph (a) of paragraph 1 of Part III, the following shall be added after point (ivb)–

“(ivc) in the case of Bulgaria and Romania, 1st January 2007;”;

- (h) in sub-paragraph (b) of paragraph 1 of Part III, after the word “Directive” the following shall be added “save that any reference to “Annex C” shall be construed as a reference to that Annex as updated by Annex V.1, point 5.1.3 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended from time to time and as adapted by the EEA Agreement;”;

- (i) the following shall be inserted after sub-paragraph (b) of paragraph 1 of Part III–

“(c) the holders of the Bulgarian qualification of “фелдшер” (feldsher) awarded in Bulgaria before 31 December 1999 and exercising this profession under the Bulgarian national social security system on 1

January 2000 shall not be recognised as holding an appropriate European diploma for the purposes of registration;”.

Amendments to Schedule 5.

6. Schedule 5 shall be amended as follows—

- (a) in paragraph 1 of Part I, the definition of the term “Council Directive 78/686/EEC” is replaced by the following definition—

““Council Directive 78/686/EEC” means Council Directive 78/686/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications practitioners in dentistry, as amended from time to time and as adapted by the EEA Agreement;”;

- (b) in paragraph 1 of Part I, the definition of the term “the Dental Training Directive”, is replaced by the following definition—

““the Dental Training Directive” means Council Directive 78/687/EEC concerning the coordination of provisions in respect of activities of dental practitioners, as amended from time to time and as adapted by the EEA Agreement;”;

- (c) in paragraph 1 of Part I, in the definition of the term “the implementation deadline” the following sub-paragraph shall be added after sub-paragraph (db)—

“(dc) in the case of Bulgaria and Romania, 1st January 2007;”;

- (d) after paragraph 10 of Part I, the following shall be inserted—

“11. A diploma in medicine awarded in Romania which is evidence of university medical training commenced before 1st October 2003 is an appropriate European diploma for the purposes of section 23(1) of this Act

if the holder produces to the Board a certificate of the competent authority of Romania certifying that he–

(a) has–

(i) effectively, lawfully and principally been engaged, in Romania, in the activities specified in Article 5 of the Dental Training Directive for at least three consecutive years during the five years preceding the date of issue of that certificate; or

(ii) successfully completed three years of study which are equivalent to the training referred to in Article 1 of the Dental Training Directive; and

(b) is authorised to practise the activities referred to in subparagraph (a)(i) under the same conditions as holders of the scheduled European diploma specified in relation to Romania.”;

(e) in the Table in Part II (Appropriate European Diplomas), the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Диплома за висше образование на образователно-квалификационна степен “Магистър” по “Дентална медицина” с професионална квалификация “Магистър-лекар по дентална медицина	Факултет по дентална медицина към Медицински университет	Professional title: Лекар по дентална медицина
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(f) in the Table in Part II (Appropriate European Diplomas), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Diplomă de licență de medic dentist	Universități	Professional title: medic dentist
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(g) in the Table in Part III (Orthodontics), the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Свидетелство за призната специалност по “Ортодонтия”	Факултет по дентална медицина към Медицински университет
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(h) in the Table in Part III (Orthodontics), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	---	---
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(i) in the Table in Part IV (Oral Surgery), the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Свидетелство за призната специалност по “Орална хирургия”	Факултет по дентална медицина към Медицински университет
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(j) in the Table in Part IV (Oral Surgery), the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	---	---
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Amendments to Schedule 6.

7. Schedule 6 shall be amended as follows–

- (a) in the definition of the term “implementation date”, after the word “Directive” the following words shall be added “and in the case of Bulgaria and Romania that date is 1st January 2007”;
- (b) in paragraph 1 of Part I, the definition of the term “the Pharmacists Recognition Directive” is replaced by the following definition–

““the Pharmacists Recognition Directive” means Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, as amended from time to time and as adapted by the EEA Agreement;”;

- (c) in the Table in Part II, the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	Диплома за висше образование на образователно-квалификационна степен “Магистър” по “Фармация” с професионална квалификация “Магистър-фармацевт”	Фармацевтичен факултет към Медицински университет
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- (d) in the Table in Part II, the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Diplomă de licență de farmacist	Universități
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Amendments to Schedule 9.

8. Schedule 9 shall be amended as follows–

- (a) in the Table in paragraph 1 (2) of Part I, the following is inserted between the entries for Belgium and Cyprus–

BULGARIA	1 January 2007	1 January 2007	1 January 2007
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- (b) in the Table in paragraph 1 (2) of Part I, the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	1 January 2007	1 January 2007	1 January 2007
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- (c) the following shall be inserted as paragraph 1 (3) of Part I–

“(3) The holders of the Bulgarian qualification of “фелдшер” (feldsher) awarded in Bulgaria before 31 December 1999 and exercising this profession under the Bulgarian national social security system on 1 January 2000 shall not be recognised as holding an appropriate European diploma for the purposes of registration.”;

- (d) the following shall be inserted after paragraph 5A of Part I–

“Qualifications obtained in Romania before 1 January 2007, or awarded in respect of nursing or midwifery training begun before that date which do not comply with Directive requirements.

5B.(1) This paragraph applies to a professional qualification in respect of which a diploma is obtained in Romania in respect of training which does not comply with the requirements of article 1 of the Second Nursing Directive or article 1 of the Second Midwifery Directive–

(a) in the case of a qualification in nursing in general care, before 1 January 2007 or on or after that date in respect of a course of training begun before that date; or

(b) in the case of a midwifery qualification, before 1 January 2007, or on or after that date in respect of a course of training begun before that date.

(2) A qualification referred to in sub-paragraph (1) shall be an appropriate European diploma for the

purposes of registration only if the requirements set out in sub-paragraph (3) are satisfied.

(3) The diploma referred to in sub-paragraph (1) shall be accompanied by a certificate from the competent authority in Romania stating that the person named in the certificate has practised effectively and lawfully as a nurse responsible for general care or, as the case may be, as a midwife, in Romania for—

(a) in the case of a person holding the diploma of nurse (Certificat de competențe profesionale de asistent medical generalist) with post-secondary education obtained from a *școală postliceală*, at least five consecutive years during the period of seven years ending with the date of issue of the certificate; or

(b) in the case of a person holding a diploma, certificate or other formal qualification as a midwife (asistent medical obstetrică-ginecologie/obstetrics-gynecology nurse), at least five consecutive years during the period of seven years ending with the date of issue of the certificate,

and the period of practice specified in sub-paragraph (a) in relation to a person holding the diploma of nurse must have included taking full responsibility for the planning, organisation and carrying out of the nursing care of the patient.”;

(e) in the Table in Part II, the following is inserted between the entries for Belgium and Cyprus—

BULGARIA	Диплома за висше образование на образователно-квалификационна степен “Бакалавър” с профес-ионална квалификация “Медицинска сестра	Университет	Медицинска сестра
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(f) in the Table in Part II, the following is inserted between the entries for Portugal and Slovakia—

ROMANIA	1. Diplomă de absolvire de asistent medical generalist cu studii superioare de scurtă durată	1. Universități	asistent medical generalist
	2. Diplomă de licență de asistent medical generalist cu studii superioare de lungă durată	2. Universități	

(g) in the Table in Part III, the following is inserted between the entries for Belgium and Cyprus—

BULGARIA	Диплома за висше образование на образователно-квалификационна степен “Бакалавър” с профес-ионална квалификация “Акушерка”	Университет	Professional title: Акушерка
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(h) in the Table in Part III, the following is inserted between the entries for Portugal and Slovakia–

ROMANIA	Diplomă de licență de moașă	Universități	Professional title: Moașă
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Dated 11th of December, 2008.

C G BELTRAN,

Minister with responsibility for Education,
for the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose Parts III.1, III.2, III.3, III.5, III.6 and Part V of the Annex to Council Directive 2006/100/EC in order to make provision for various healthcare professionals with qualifications awarded by Bulgaria or Romania to practise in Gibraltar subsequent to the accession of Bulgaria and Romania to the European Union on 1 January 2007. The transposition is done by way of amendment to the Medical and Health Act (“MHA”).

The amendments made to section 2 (1) of, and Schedule 3 to, the MHA (Regulations 3 and 5) transpose Part III.1 of Council Directive 2006/100/EC (doctors).

The amendments made to section 32 (1) of, and Schedule 9, to the MHA (Regulations 4 and 8) transpose Parts III.2 and III.5 of Council Directive 2006/100/EC (nurses and midwives).

The amendments made to Schedule 5 to the MHA (Regulation 6) transpose Part III.3 of Council Directive 2006/100/EC (practitioners of dentistry).

The amendments made to Schedule 6 to the MHA (Regulation 7) transpose Part III.6 of Council Directive 2006/100/EC (pharmacists).

The amendments made in Regulations 5 (i) and 8 (c) transpose point (a) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 8 (d) transpose point (b) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 6 (d) transpose point (c) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 8 (d) transpose point (d) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 5 (a) and (b) transpose point (f) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 5 (e) and (f) transpose point (g) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 5 (h) transpose point (h) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 5 (c), (d) and (g) transpose point (i) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 8 (a), (b), (e) and (f) transpose point (j) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 6 (c), (d), (e) and (f) transpose point (k) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 6 (c) and (g) transpose point (l) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 6 (c) and (i) transpose point (m) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 8 (a), (b), (g) and (h) transpose point (o) of Annex V of Council Directive 2006/100/EC.

The amendments made in Regulation 7 (a), (c) and (d) transpose point (p) of Annex V of Council Directive 2006/100/EC.

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