

**RECOGNITION OF PROFESSIONAL  
QUALIFICATIONS ACT, 1997**

**Repealed by L.N. 2016/101 as from 6.5.2016**

**Principal Act**

<b>Act. No. 1997-31</b>	<i>Commencement</i>	16.10.1997
	<i>Assent</i>	16.10.1997

Amending enactments	Relevant current provisions	Commencement date
LN. 2001/104	Sch. 3	16.8.2001
Act. 2003-11	ss. 30(1), (2), (2)(a)(i), (3), 33(1), (1)(b), (2), (2)(a), (2)(b), 34(1)(b), (2A), (3), 35(b), and 37(6), (7), (8), (9)	31.7.2003
2005-15	ss. 30(1) and Sch. 3 Part 1.	1.5.2004
LN. 2007/103	Sch. 3	1.1.2007

English sources

None cited

**EU Legislation/International Agreements involved:**

Directive 2006/100/EC

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## Recognition of Professional Qualifications

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AN ACT TO TRANSPOSE INTO THE LAW OF GIBRALTAR 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, OR WHICH ARE OF DEGREE LEVEL OR EQUIVALENT AND TO TRANSPOSE INTO THE LAW OF GIBRALTAR COUNCIL DIRECTIVE 92/51/EEC ON A SECOND GENERAL SYSTEM FOR THE REGULATION OF PROFESSIONAL EDUCATION AND TRAINING TO SUPPLEMENT COUNCIL DIRECTIVE 89/48/EEC AS AMENDED BY COMMISSION DIRECTIVES 94/38/EC AND 95/43/EC AND THE DECISION OF THE EEA JOINT COMMITTEE NO.7/94 OF 21st MARCH 1994 AMENDING ANNEX VII TO THE EEA AGREEMENT IN RELATION TO COUNCIL DIRECTIVE 92/51/EEC.

## **PART I** **INTRODUCTION**

### **Title.**

1. This Act may be cited as the Recognition of Professional Qualifications Act.

### **Application.**

2.(1) Subject to subsection (2) below, Parts II to V of this Act shall apply to the practice of a regulated profession whether in an employed or a self-employed capacity.

(2) Parts II to V of this Act shall not apply to—

- (a) any profession the mutual recognition of qualifications in which is the subject of one of the directives of the European Community listed in Part I of Schedule I;
- (b) any activity the taking up or pursuit of which in a self-employed or employed capacity is the subject of one or more of the directives listed in Part II of Schedule I; or
- (c) any profession the taking up or pursuit of which is regulated by or under—
  - (i) the Medical and Health Act as amended from time to time, or

- (ii) such other enactment as the Minister shall specify by Order in the Gazette.

**Interpretation of Parts I to V.**

3.(1) In Parts I to V, unless the context otherwise requires, the following words and phrases shall have the following meanings (and cognate expressions shall be construed accordingly)–

“adaptation period” has the meaning ascribed to it by section 15(2);

“another relevant State” means a relevant State or territory thereof other than Gibraltar;

“appeal body” means–

- (a) in relation to a profession listed in Schedule 8, the body, court, person or tribunal there specified; and
- (b) in relation to a profession for the time being designated under section 28, the tribunal specified in section 29;

“aptitude test” has the meaning ascribed to it by section 15(3);

“Attestation of Competence” has the meaning ascribed to it by section 7;

“competent authority” has the meaning ascribed to it by section 8;

“Certificate” has the meaning ascribed to it by section 6;

“designated authority” has the meaning ascribed to it by section 9;

“Diploma” means a First or Second General System Diploma;

“evidence of professional experience” has the meaning ascribed to it by section 15(1);

“First General System Diploma” means a Diploma within the meaning of Part VI below;;

“holder” means a person to whom a competent authority has awarded evidence of education and training;

“home relevant State” means, as the case requires, the relevant State from which a migrant originates or comes or in which the migrant obtained his evidence of education and training or formerly practised;



“migrant” means a person seeking authorisation to practise pursuant to this Act who is a national of a relevant State and whose home relevant State in one or more of the senses of that expression, is not Gibraltar;

“Minister” means the Minister charged with responsibility for education;

“practice”, in relation to any regulated professional activity or range of such activities which constitute a regulated profession within the meaning of section 4(1) includes—

- (a) the taking up or pursuit of that activity or range of activities in a relevant State, whether in a self-employed capacity or as an employed person; and
- (b) in conjunction with such pursuit—
  - (i) the use of a professional title or designatory letters; and
  - (ii) the enjoyment of the benefit of the status associated with membership of the profession;

“profession” includes occupation and trade;

“professional association” means an association or organisation, recognised in special form by a relevant State, the purpose of which is, in particular, to promote and maintain a high standard in the professional field with which it is concerned and which, to that end—

- (a) prescribes, and enforces respect within its membership for, rules of professional conduct; and
- (b) awards evidence of education and training to its members; and
- (c) confers on its members the right to use one or more professional titles, or designatory letters or to benefit from a status corresponding to that education and training;

“regulated profession” has the meaning ascribed to it by section 4(1);

“regulated professional activity” has the meaning ascribed to it in section 4(2);

“relevant State” means a member State, Iceland, Norway or Liechtenstein, or any territory thereof to which Council Directive

92/51/EEC applies and, where the context requires, means Gibraltar;

“Second General System Diploma” has the meaning ascribed to it by section 5:

“third country” means a country other than a relevant State.

(2) In Parts I to V, the expressions “Gibraltar Diploma”, “Gibraltar Certificate”, “Gibraltar Attestation of Competence”, “Gibraltar attestation of general education” and “Gibraltar qualification” mean, respectively, the Diploma, Certificate, Attestation of Competence, attestation of general education or qualification to possession of which the practice of the regulated profession in question is subject in Gibraltar.

**Regulated Profession, Regulated Professional Activity and Regulated Education and Training.**

4.(1) For the purposes of Parts I to V, a profession is regulated—

- (a) in Gibraltar—
  - (i) if it is, or a professional title or designatory letters associated with the pursuit of the profession is or are, listed in Schedule 5 to this Act or designated under section 28; or
  - (ii) at any time when it is not so listed, if and in so far as any activity or range of professional activities which constitutes the profession is regulated within the meaning of subsection (2) below;
- (b) in another relevant State if and in so far as any activity or range of activities which constitutes the profession is regulated within the meaning of subsection (2) below.

(2) For the purposes of Parts I to V, a professional activity is regulated in a relevant State if and in so far as—

- (a) the practice, or any mode of practice, of that activity in that relevant State is subject, directly or indirectly, by virtue of laws, regulations or administrative provisions, to the possession of evidence of education and training or an Attestation of Competence; or

- (b) it is practised under a professional title the use of which is reserved to holders of evidence of education and training or an Attestation of Competence governed by laws, regulations or administrative provisions; or
  - (c) it relates to health and the remuneration or reimbursement received for the practice of the activity in the relevant State in question is, by virtue of arrangements for the administration of social security, subject to the possession of evidence of education and training or an Attestation of Competence; or
  - (d) it is practised by members of a professional association.
- (3) For the purposes of Parts I to V, education and training is regulated if–
- (a) it is specifically geared to the pursuit of a given profession in a relevant State, and
  - (b) it comprises a course or courses complemented where appropriate by professional training or probationary or professional practice the structure and level of which are determined by the laws regulations or administrative provisions of that relevant State or which are monitored or approved by the competent authority.

## **Definition of “Second General System Diploma”.**

5.(1) In Parts I to V, “Second General System Diploma” means any evidence of education and training received in accordance with subsection (3) below, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which shows that the holder has successfully completed either–

- (a) a post-secondary course such as is described in subsection (4) below and the professional training which may be required in addition to that course, or
- (b) one of the courses listed in Schedule 3,

and has the professional qualifications required for the practice of a regulated profession in that relevant State.

(2) Any evidence of education and training, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which–

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- (a) shows that the holder has successfully completed education and training received in the Community and recognised by a competent authority in that relevant State as being of equivalent value to education and training satisfying subsection (1) above; and
- (b) confers the same rights in respect of the practice of the regulated profession in that relevant State,

shall, for the purposes of Parts I to V, be treated in the same way as a Second General System Diploma.

(3) The education and training referred to in subsection (1) above will have been received wholly or mainly—

- (a) in the Community; or
- (b) outside the Community at teaching establishments which provide education and training in accordance with the laws regulations or administrative provisions of a relevant State; or
- (c) if neither (a) nor (b) is the case, in a third country, provided that the holder has at least three years' professional experience certified by a relevant State which recognised evidence of education and training from that country.

(4) A post-secondary course of the kind referred to in subsection (1)(a) above will have been one—

- (a) which, if pursued full-time, was of at least one year's duration or, if pursued part time, was of equivalent duration; and
- (b) one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education,

but will not have been a course of three or more years' duration if pursued full-time, or of an equivalent duration if pursued part-time, completed at a university or establishment of higher education or another establishment of similar level.

### **Definition of “Certificate”.**

6.(1) In Parts I to V, “Certificate” means any evidence of education and training received in accordance with subsection (3) below, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which shows that the holder either—

- (a) followed a secondary course of a technical or vocational nature of a kind which renders it unnecessary to complete any further course of education and training of the kind described in subsection (4) or probationary or professional practice; or
- (b) in any other case, after having followed a secondary course has completed either—
  - (i) a course of education and training such as is described in subsection (4) below and, where appropriate, the professional training which may be required in addition to that course; or
  - (ii) the probationary or professional practice required in addition to the secondary course;

and that the holder has the professional qualifications required for the practice of a regulated profession in that relevant State.

(2) The education and training referred to in subsection (1) above will have been received wholly or mainly—

- (a) in the Community; or
- (b) outside the Community at teaching establishments which provide education and training in accordance with the laws regulations or administrative provisions of a relevant State; or otherwise
- (c) in a third country, provided that the holder has at least two years' professional experience certified by a relevant State which recognised evidence of education and training from that country.

(3) A course of education and training of the kind referred to in subsection (1)(a) or (1)(b) above will have been provided either—

- (a) at an educational or training establishment; or
- (b) on the job; or
- (c) in a combination of (a) and (b),

but will not be a post-secondary course of the kind evidenced by a First or a Second General System Diploma.

(4) Any evidence of education and training, or any set of such evidence, which has been awarded by a competent authority in a relevant State and which—

- (a) shows that the holder has successfully completed education and training received in the Community and recognised by a competent authority in that relevant State as being of equivalent level to education and training satisfying subsection (1) above; and
- (b) confers the same rights in respect of the practice of the regulated profession in that relevant State,

shall, for the purposes of this Act, be treated in the same way as a Certificate.

**Definition of “Attestation of Competence”.**

7.(1) In Parts I to V, an “Attestation of Competence” means any evidence of qualifications either—

- (a) attesting to education and training not forming part of a set constituting a First General System Diploma or a Second General System Diploma or a Certificate; or
- (b) awarded following an assessment of the holder by reference to the personal qualities, aptitudes or knowledge which a competent authority considers essential for the pursuit of a profession, without proof of prior education and training being required.

**PART II**  
**ADMINISTRATION**

**Competent authority.**

8.(1) For the purposes of Parts I to V, the expression “competent authority” means—

- (a) in relation to—
  - (i) any document (including any evidence of education and training or any set of such evidence), statement, attestation or notification;

- (ii) subject to paragraph (b), below, any function of deciding, recognising, monitoring or approving,

the authority, body or person in the relevant State in question authorised to issue, make, award or give such document, statement, attestation or notification or invested with such function under the laws, regulations or administrative provisions of that State;

- (b) in relation to any profession which is regulated in a relevant State, the person, body or authority in that relevant State invested by any enactment, rule of law, charter, by-law or other rule (however described) governing the conduct of the profession or activity, with the function—

- (i) of authorising the practice of the profession in that State; or

- (ii) if no person, body or authority has that function in the case in question, of conferring membership of the professional association for the professional field concerned or the right to the use of certain professional titles or designatory letters or other benefits of such membership.

(2) For the purposes of subsection (1) above, if in a relevant State a profession is regulated by different persons, bodies or authorities for different parts of the relevant State, the competent authority for that relevant State shall be the person, body or authority which has the function in question for the part of the relevant State in respect of which the identity of the competent authority falls to be determined.

## **Designated Authorities.**

9.(1) For the purposes of Parts I to V, the following shall be regarded as the designated authorities for their profession—

- (a) in respect of any profession for the time being listed in Schedule 5 below, the person, body or authority there specified as the designated authority in relation to that profession;
- (b) in respect of any profession for the time being designated under section 28 to this Act, such person as the Minister shall, from time to time appoint.

(2) If at any time a profession is regulated within Gibraltar but is not listed in one of the ways mentioned in subsection (1) above, the designated

authority in respect of that profession or, as the case may be, professional activity shall be the competent authority, determined in accordance with section 8(1)(b).

**Further Designated Authorities.**

10.(1) Without prejudice to its other powers and functions, a designated authority shall have the functions of considering applications and granting authorisations under this Act.

(2) For the purposes of subsection (1) above, the function of authorising the practice of a profession or activity shall include the authorising of its pursuit under a professional title.

(3) Nothing in this Act shall be taken to require a designated authority to authorise the practise of any profession save in so far as it has that function in relation to the holders of the relevant Gibraltar qualification.

**PART III**  
**RIGHT TO PRACTICE IN GIBRALTAR**

**Authorisation to practise.**

11.(1) This section applies in any case in which the practice of a profession in Gibraltar is subject to the possession of a Diploma one of the conditions for the issue of which is the completion of a post-secondary course of four years' duration or less.

(2) Subject to subsection (3) below, the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required Gibraltar Diploma—

- (a) in the case in which the Gibraltar Diploma is a First General System Diploma, if any one of paragraphs 1(a) or (b) or 2 of Schedule 2 applies;
- (b) in the case in which the Gibraltar Diploma is a Second General System Diploma, if any one of paragraphs I to 3 of that Schedule applies.

(3) The requirement in subsection (2) above to authorise on the same conditions as those which apply to a holder of the required Gibraltar Diploma shall not restrict the right of the designated authority, in the circumstances and on the conditions laid down in Part IV of this Act to require a migrant—



- (a) to provide evidence of professional experience; or
- (b) successfully to complete an adaptation period; or
- (c) to take and pass an aptitude test.

## **Further authorisation to practise.**

12.(1) This section applies in any case in which the practice of a profession in Gibraltar is subject to the possession of a Certificate.

(2) Subject to subsection (3), the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required Gibraltar Certificate if any one of paragraphs 1, 4 or 5 of Schedule 2 applies.

(3) The requirement in subsection (2) above to authorise on the same conditions as those which apply to a holder of the required Gibraltar Certificate shall not restrict the right of the designated authority, in the circumstances and on the conditions laid down in Part IV of this Act, to require a migrant—

- (a) successfully to complete an adaptation period; or
- (b) to take and pass an aptitude test.

## **Attestations of Competence.**

13.(1) This section applies in any case in which the practice of a profession in Gibraltar is subject to the possession of an Attestation of Competence.

(2) Subject to subsection (3) below, the designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of the required Gibraltar Attestation of Competence—

- (a) if the migrant holds at least the Attestation of Competence required in another relevant State for the practice of the same profession; or
- (b) if the applicant provides proof of other qualifications obtained in other relevant States.

(3) The designated authority shall be entitled to satisfy itself that the Attestation of Competence or, as the case may be, other qualifications

presented by the migrant are the equivalent of the Gibraltar Attestation of Competence in terms of the guarantees (in particular in the matter of health, safety, environmental protection and consumer protection) required of those practising the profession in Gibraltar by virtue of laws, regulations or administrative provisions.

(4) In any case in which the designated authority cannot reasonably satisfy itself in the terms of subsection (3) above as to the equivalence of the Attestation of Competence presented by the migrant, the migrant shall be required to comply with such domestic requirements for authorisation as have been laid down for the practice of the profession.

**Attestation of general education.**

14.(1) This section applies in any case in which the practice of a profession is subject only to the possession of evidence of education attesting to general education at primary or secondary school level.

(2) The designated authority for a profession may not, on the grounds of inadequate qualifications, refuse to authorise a migrant to practise the profession on the same conditions as those which apply to holders of evidence of the required Gibraltar attestation of general education if the migrant possesses formal qualifications of the corresponding level or higher satisfying the requirements of subsection (3) below.

(3) The formal qualifications will satisfy the requirements of this subsection if they have been awarded by the competent authority in another relevant State.

**PART IV**

**REQUIREMENTS OF EVIDENCE OF PROFESSIONAL EXPERIENCE,  
ADAPTATION PERIODS AND APTITUDE TESTS**

**Meaning of evidence of professional experience, adaptation period and aptitude test.**

15.(1) Evidence of professional experience means evidence of the actual and lawful pursuit in a relevant State of a profession corresponding to the regulated profession which the migrant seeks to take up or pursue in Gibraltar.

(2) An adaptation period means, in relation to the regulated profession which the migrant seeks to take up or pursue in Gibraltar, a period of pursuit of the profession under the supervision of a qualified member of the profession, with or without the undertaking of further education and training

with the aim of assessing the ability of the migrant to pursue that profession in Gibraltar.

(3) An aptitude test means, in relation to the regulated profession which the migrant seeks to take up or pursue in Gibraltar, a test of the migrants professional knowledge conducted by the designated authority for the profession with the aim of assessing the ability of the migrant to pursue that profession in Gibraltar.

## **Choice of evidence of professional experience, adaptation period or aptitude test.**

16.(1) A designated authority may not in any case in which a migrant has made application to take up or pursue a regulated profession require the migrant to comply with more than one of the following requirements, that is to say—

- (a) to produce evidence of professional experience;
- (b) successfully to complete an adaptation period;
- (c) to take and pass an aptitude test.

(2) A designated authority wishing to apply to a migrant a requirement either to complete an adaptation period or to take an aptitude test shall afford the migrant the right to choose between them.

## **Circumstances in which evidence of professional experience may be required.**

17.(1) Evidence of professional experience may only be required in a case where the duration of education and training adduced by a migrant in support of his application is at least one year less than the duration required of holders of Gibraltar Diplomas.

(2) Subsection (1) above notwithstanding, evidence of professional experience may not be required in a case in which the migrant holds either—

- (a) a First General System Diploma; or
- (b) a Second General System Diploma evidencing education and training of the kind described in section 5(1)(a) above;

if the Gibraltar Diploma or evidence of education and training required by the designated authority attests to one of the courses of education and training listed in Part II of Schedule 3.

**Conditions affecting the requirement of evidence of professional experience.**

18.(1) The period of professional experience evidence of which may be required of a migrant shall not exceed the shorter of—

- (a) in a case in which the shortfall between the duration of the education and training required by the designated authority and the duration of the education and training evidence of which has been adduced by the migrant (“the shortfall”) relates to a post-secondary course, or to a period of probationary practice carried out under the supervision of a qualified member of the profession and ending with an examination, or to both, a period twice the duration of the shortfall;
- (b) in a case in which the shortfall relates to practice of the profession acquired with the assistance of a qualified member of the profession, a period equal to the shortfall;
- (c) four years.

(2) For the purposes of subsection (1) above, in a case in which the Gibraltar Diploma evidences a course of education and training listed in Part II of Schedule 3 and in which the migrant's claim to recognition rests on paragraph 9 of Schedule 2, the duration of the education and training of which evidence has been adduced by the migrant shall be taken to be the duration of the post-secondary education and training of which it is the recognised equivalent.

(3) In a case in which, during the previous ten years, the migrant has pursued the profession either full-time for at least two years or part-time for an equivalent period in another relevant State which does not regulate the profession, the period of professional experience of which evidence may be required under subsection (1) above shall be reduced by the duration of that pursuit.

**Circumstances in which an adaptation period or an aptitude test may be required.**

19.(1) In a case falling within section 12 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 1 or 4 of Schedule 2, a designated authority may only apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either—

- (a) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in

Gibraltar are broadly comparable, the education and training which the migrant received in relation to theoretical or practical matters, taken as a whole, differs substantially in coverage from that which is evidenced by the Gibraltar Certificate; or

- (b) the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in Gibraltar differ substantially and those differences are reflected in substantial differences in education and training in relation to theoretical or practical matters.

(2) In a case falling within section 12 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 5 of Schedule 2, a designated authority may apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

**Conditions for requirement to complete an adaptation period or take an aptitude test.**

20.(1) In a case falling within section 11 other than one in which a migrant's claim for recognition depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 2, a designated authority may only apply to the migrant a requirement to complete an adaptation period or to take an aptitude test if either—

- (a) although the fields of activity of the profession in the relevant State in which the migrant obtained his qualification and in Gibraltar are broadly comparable, the education and training relating to theoretical, or practical, or theoretical and practical matters received by the migrant differs substantially in coverage from that which is evidenced by the required Gibraltar Diploma; or
- (b) in a case in which the migrant meets the requirements of paragraph 1(a) or (b) of Schedule 2, one or more of the regulated professional activities which form the profession in Gibraltar is or are not included in the regulated profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters evidenced by the Diploma held by the migrant on the one hand and the required Gibraltar Diploma on the other;
- (c) in any other case, one or more of the regulated professional activities which form the profession in Gibraltar is or are not

included in the profession in the relevant State in which the migrant obtained his qualification and the omission is reflected in substantial differences in education and training in relation to theoretical, or practical, or theoretical and practical matters of which evidence is held by the migrant on the one hand and evidenced by the required Gibraltar Diploma on the other.

(2) In a case falling within section 11 and in which a migrant's claim to recognition of his right to practise depends upon his ability to meet the requirements of paragraph 1(c) of Schedule 2, a designated authority may apply to the migrant a requirement to complete an adaptation period or to take an aptitude test.

**Conditions affecting the requirement to complete an adaptation period.**

21.(1) The adaptation period shall be the subject of an assessment.

(2) Subject to subsection (3) below, the designated authority shall lay down the detailed rules governing—

- (a) the length of the period; and
- (b) the form of the assessment,

and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant, shall notify the migrant of the rules in advance of the migrant's exercise of that choice.

(3) The adaptation period shall not exceed—

- (a) 2 years in duration, in a case falling within section 19;
- (b) 3 years in duration, in a case falling within section 20. Conditions affecting the requirement to take an aptitude test.

22.(1) A designated authority wishing to apply to a migrant the requirement to take an aptitude test shall draw up a list of subjects which, on the basis of a comparison between the education and training required for the practice of the profession by a holder of a Gibraltar Diploma or, as the case may be, Gibraltar Certificate and the education and training received by the migrant have not been covered by the education and training evidence of which has been produced by the migrant and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall notify the migrant of the contents of the list in advance of his exercise of his choice.

(2) The subjects listed pursuant to subsection (1) above may cover theoretical knowledge and practical skills required for the pursuit of the profession.

(3) Subject to subsection (4) and (5) below, the detailed application of the aptitude test shall be determined by the designated authority and in any case in which the choice between an adaptation period and an aptitude test rests with the migrant shall be notified to the migrant in advance of his exercise of his choice.

(4) The aptitude test shall only consist of—

- (a) subjects selected from the list drawn up pursuant to subsection (1) above, knowledge of which is essential to the pursuit of the profession within Gibraltar; and
- (b) if required, a test of the migrant's knowledge of the professional rules applicable to the activities in question in Gibraltar.

(5) In setting the aptitude test the designated authority shall take appropriate account of the migrant's status as a qualified professional in the home relevant State.

## **PART V** **ANCILLARY PROVISIONS**

### **Evidence from competent authorities.**

23.(1) A designated authority shall, in connection with any matter requiring to be established pursuant to Parts III and IV, accept as sufficient evidence thereof the documents duly issued by a competent authority of the appropriate relevant State for the purpose of attesting such matters.

(2) A designated authority which—

- (a) requires of an applicant for authorisation to practice proof that he is of good character or repute, or that he has not been declared or adjudged bankrupt, or had a bankruptcy or similar order made against him or in relation to his estate; or
- (b) suspends or prohibits practice in the event of serious professional misconduct or the commission of a criminal offence;

shall, in respect of nationals of a relevant State, accept as sufficient evidence in relation to the foregoing the documents duly issued by the competent authorities of the home relevant State showing, in the case of (a) above, that the relevant conditions are met, or, in the case of (b) above, that the migrant has committed no such misconduct or offence.

(3) In any case in which the competent authorities do not issue such documents as may be required under subsection (2) above, the designated authority shall, subject to subsection (4) below, accept in the place of such documents a declaration on oath or solemn declaration to the required effect, made by the migrant before a competent judicial or administrative authority or (where appropriate) a notary or duly qualified professional body of the home relevant State;

(4) A declaration for the purposes of subsection (3) above shall only be required to be accepted if it is accompanied by written confirmation of its authenticity issued by the authority, notary or body.

(5) A designated authority which requires of persons wishing to practise a statement of physical or mental health, shall accept as sufficient evidence thereof the documents required for such a purpose in the home relevant State.

(6) In any case in which the competent authority of the migrant's home relevant State does not impose the requirement referred to in subsection (5) above, the designated authority shall accept a statement issued by a competent authority there which corresponds to the statement issued for that purpose in Gibraltar.

(7) A designated authority may require any document or statement referred to in subsection (2), (3), (5) or (6) above to be presented no more than three months after the date of its issue.

(8) Where a designated authority requires applicants to take an oath or make a solemn declaration, the form of which is such that it cannot be taken or made by nationals of another relevant State, it shall ensure that an appropriate equivalent form of oath or declaration is available for those nationals.

### **Use of professional title.**

24.(1) A migrant who has been granted authorisation to practise a regulated profession pursuant to this Act shall have the right to use—

- (a) the professional title and designatory letters applicable to that profession in Gibraltar; and



- (b) the lawful academic title (and where appropriate the abbreviation thereof) acquired by him in the relevant State in which he qualified and in the language of that State.

(2) Where the migrant makes use of the possibility provided for in subsection (1)(b), the designated authority may require that the title shall be followed by the name and location of the establishment or examining board which awarded it.

(3) Where membership of a professional association is subject to any qualification requirements, such requirements may be applied to a migrant whose evidence of education and training satisfies the relevant provisions of Schedule 2 only so far as they are consistent with the provisions of this Act.

## **Decisions of designated authorities and appeals.**

25.(1) The designated authority to which a migrant applies for authorisation to practise shall consider the migrant's application as soon as is reasonably practicable, and shall notify him of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

- (2) The migrant may appeal—
  - (a) against the decision of the designated authority referred to in subsection (1) above; or
  - (b) in a case in which the period of four months mentioned in subsection 1 above has expired without the notification referred to, in respect of the failure of such authority to make a decision

to the appeal body for the profession provided that such appeal is lodged within three months of the notification to him of the designated authority's decision, or of the expiry, without a decision being notified to him, of the period laid down in subsection (1) or thereafter with leave of the appeal body.

(3) The appeal body for a profession may, for the purpose of determining any appeal under this Act against the decision of a designated authority—

- (a) give any authorisation to practise and impose any condition which the designated authority could give or impose in relation to that profession; or
- (b) remit the matter to the designated authority with such directions as the appeal body sees fit.

(4) The appeal body for a profession may make rules of procedure governing the hearing and determination of any appeal under this Act against the decision of a designated authority. Such rules may make different provision for different cases.

**Information from designated authorities and competent authorities.**

26. Designated authorities shall provide the Minister with such information (including statistical information) as he may require concerning applications made and decisions taken under this Act.

**Production of information.**

27. Any authority, body or person who is the competent authority in respect of information or evidence sought by the holder of a Gibraltar qualification in support of his application to practise a profession in another relevant State which regulates that profession shall, as soon as is reasonably practicable following the request of the holder, produce to the holder such information and evidence as the holder reasonably requires to that end.

**Designation of regulated professions.**

28.(1) The Minister shall, by Order in the Gazette, designate to be regulated professions, such professions as he shall, in his discretion, deem appropriate.

(2) An Order made under this section shall have effect only as provided by an Order so made.

**Appeal body.**

29.(1) There is hereby established an appeals body to be known as the Professions Appeals Tribunal, which shall consist of not less than three nor more than five members to be appointed by the Minister, one of whom shall be appointed by the Minister as Chairman.

(2) If any member shall be absent from any meeting of the tribunal from illness or any other cause, it shall be lawful for the Minister to appoint a temporary member to fill the vacancy.

(3) Subject to subsection (2) above, it shall not be lawful for the tribunal to hear any appeal in the absence of any member.

(4) The tribunal shall have power to regulate its own proceedings subject to the provisions of this Act.

(5) Any decision arrived at by the tribunal as a result of deliberations on any matter before it, shall be subject to a single further appeal on a point of law to a judge of the Supreme Court sitting in Chambers.

## **PART VI** **RIGHT TO PRACTISE IN GIBRALTAR: SUPPLEMENTARY** **PROVISIONS**

### **Interpretation.**

30.(1) In this Part, unless the context otherwise requires, the following words and phrases have the following meanings (and cognate expressions shall be construed accordingly)–

“adaptation period” means a period of practice of a regulated profession in Gibraltar under the supervision of a qualified member of that profession, required by a designated authority pursuant to section 34(1)(b);

“appeal body” means, in respect of any regulated profession, the body, court or person specified in relation to that profession in Schedule 8;

“aptitude test” means a test required by a designated authority pursuant to section 34(1)(b);

“competent authority” means, in relation to any–

- (a) document, certificate, diploma or qualification; or
- (b) period of professional experience,

referred to in this Part, the authority, body or person in a relevant State authorised under the laws, regulations or administrative provisions of that State, to issue, award or recognise such document, certificate, diploma or qualification, or to certify any such period;

“corresponding profession” means a profession, the pursuit of which in a relevant state includes a substantial number of the professional activities comprised in the pursuit of the profession in Gibraltar which is the subject of the migrant’s application;

“designated authority” means a body or authority designated in relation to a regulated profession by section 32 and Schedule 5;

“diploma” has the meaning given to it in sub-section (2) below;

“the Directive” means 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;

“member state” means a state which is a member of the European Union;

“native applicant” means a national of Gibraltar or a national of the United Kingdom applying to a designated authority for authorisation to practise, the qualifications of whom were obtained wholly or recognised within Gibraltar;

“practice” in relation to any regulated profession, includes—

- (a) the taking up or pursuit of the profession in a relevant State, whether in a self-employed capacity or as an employed person; and
- (b) the right to use, in the course of such pursuit, a professional title or designatory letters, or the enjoyment of a special status corresponding to a diploma, granted by a designated authority for that profession;

“professional experience” means the lawful pursuit in a relevant State of a profession corresponding to the regulated profession which is the subject of the migrant’s application;

“regulated education and training” means education or training which—

- (a) is directly geared to the practice of a defined profession in a relevant state; and
- (b) comprises a post-secondary course of at least three years’ duration, or an equivalent duration part-time, at a university or higher education establishment or in another establishment of equivalent level, complemented, where appropriate, by professional training, professional traineeship or professional practice the structure and level of which is determined by the laws, regulations or administrative provisions of that relevant state or monitored or approved by the competent authority;

“regulated profession” means a profession in respect of which a designated authority is specified in Schedule 5 and the profession of company auditor as defined in the Auditors Registration Act.

“relevant state” means a member State, Iceland, Norway, Liechtenstein or Switzerland:

(2) In this Part—

“diploma” means any diploma, certificate or other evidence of formal qualifications awarded by a competent authority in a relevant State—

(a) which shows that the holder—

- (i) has successfully completed a post-secondary course of at least three years’ duration (or of an equivalent duration part-time) at a university or an establishment of higher education or an establishment of equivalent level;
- (ii) has successfully completed any additional professional training required; and
- (iii) has the qualifications required for the practice of a regulated profession in that State;

or

(b) which was awarded on the successful completion of education and training received within a relevant State, and which—

- (i) has been recognised by a competent authority in that State as equivalent in level to a diploma to which paragraph (a) above applies; and
- (ii) confers the same right in respect of the practice of a regulated profession to that State.

(3) A diploma shall only meet the requirements of sub-section (2)(a) if—

- (a) the education and training attested were received mainly within a relevant State; or
- (b) the holder has had at least three years’ professional experience certified by a competent authority in that State (being a State which recognised a diploma, certificate or other evidence of formal qualifications obtained elsewhere than in a relevant State).

## **Application.**

31. This Part shall apply notwithstanding any enactment or rule of law, including any provision in any charter, bye-law or other rule (however described) governing any designated authority.

**Designated authorities.**

32.(1) The designated authority for a regulated profession in Gibraltar is the body or authority specified in relation to that profession in Schedule 5.

(2) Without prejudice to its other powers and functions, a designated authority shall have the function of considering applications and granting authorisations under this Part.

**Right to practise in Gibraltar.**

33.(1) Subject to section 34, a designated authority for a regulated profession may not, on grounds of inadequate qualifications refuse to authorise a migrant to practise the profession on the same conditions as apply to someone who holds the diploma required of native applicants, if—

- (a) the migrant holds the diploma required in a relevant State for the practice of a corresponding profession regulated by that State, the diploma having been awarded in an relevant State; or
- (b) the migrant produces evidence that he holds formal qualifications which satisfy the requirements of subsection (2) below and either—
  - (i) the qualifications were awarded on completion of regulated education and training; or
  - (ii) the migrant has within the 10 years immediately prior to his application pursued a corresponding profession for at least two years full time (or equivalent duration part time) in a relevant State in which the profession is not regulated;

(2) Formal qualifications satisfy the requirements of this subsection if they are—

- (a) formal qualifications awarded by a competent authority in a relevant State which—
  - (i) show that that the migrant has successfully completed a post-secondary course of at least three years' duration (or equivalent duration part-time) at a university or an

establishment of higher education or an establishment of similar level in a relevant State;

- (ii) show the migrant has successfully completed any additional professional training required; and
- (iii) prepared the migrant for the corresponding profession,

or

- (b) formal qualifications awarded by a competent authority in a relevant State on the successful completion of education and training within a relevant State and recognised by a competent authority in that State as equivalent to the qualifications specified in sub-section (2)(a) of this section; provided that notification of such recognition has been duly given in accordance with Article 3(b) of the Directive.

### **Professional experience, adaptation periods and aptitude tests.**

34.(1) A designated authority may, before authorising the migrant to practise the regulated profession, require him to satisfy one or other of the following conditions (but not both)–

- (a) where the duration of the education and training received by the migrant, as appears from the matters established by him pursuant to section 33, is at least one year less than that required of native applicants, he may be required to provide evidence of a period of professional experience; and the provisions of Schedule 6 shall have effect with respect to the length of that period;
- (b) in the circumstances specified in sub-section (3) below (but subject to subsection (2) and (2A) below), the migrant may be required either–
  - (i) successfully to complete an adaptation period not exceeding three years; or
  - (ii) to pass an aptitude test.

(2) Where a requirement is imposed pursuant to sub-section (1)(b) above the choice between an adaptation period and an aptitude test shall be that of the migrant, except in the case of the regulated professions specified in Schedule 7 (where the provisions of that Schedule shall apply).

(2A) if a designated authority intends to require the migrant to complete an adaptation period or take an aptitude test it must first examine whether

the knowledge acquired by the migrant in the course of his professional experience is such that it fully or partly covers the substantial difference referred to in subsection (3)

(3) The circumstances referred to in sub-section (1)(b) above where the matters covered by the education and training received by the migrant, as established by him pursuant to section 33, differ substantially from those covered by the diploma required of native applicants.

### **Requirements in relation to aptitude tests.**

35.(1) An aptitude test shall—

- (a) be limited to the professional knowledge of the migrant and shall have the aim of assessing his ability to pursue the relevant regulated profession in Gibraltar; and
- (b) take into account that he is a qualified professional in a relevant State.

(2) The designated authority shall determine the matters to be covered by the aptitude test as follows—

- (a) the authority shall establish which subjects covered by the diploma required of native applicants are not already covered by the migrant's diploma or other evidence of formal qualifications;
- (b) the test shall cover subjects selected from those so established, the knowledge of which is essential for the pursuit of the regulated profession in Gibraltar;
- (c) the test may include knowledge of the relevant rules of professional conduct.

(3) The professional status of a migrant preparing for the aptitude test shall be a matter for the designated authority.

### **Requirements in relation to adaptation periods.**

36.(1) The designated authority shall determine the detailed requirements of the adaptation period, having regard to the circumstances of each individual migrant and, in particular, to the fact that he is a qualified professional in a relevant State.

(2) The migrant may be required to undergo further training during the adaptation period.



(3) The migrant's performance during the adaptation period shall be assessed by the designated authority.

(4) The professional status of a migrant during the adaptation period shall be a matter for the designated authority.

## **Evidence from competent authorities.**

37.(1) A designated authority shall, in connection with any matter requiring to be established pursuant to section 33 or 34, accept as sufficient evidence thereof the certificates or other documents duly issued by a competent authority of the relevant State for the purpose of attesting such matters.

- (2) A designated authority which—
- (a) requires of an applicant for authorisation to practise, proof that he is of good character or repute, or that he has not been declared or adjudged bankrupt, or had a bankruptcy or similar order made against him or in relation to his estate; or
  - (b) suspends or prohibits practice in the event of serious professional misconduct or the commission of a criminal offence;

shall accept as sufficient evidence the instruments described in sub-section (3).

(3) For the purposes of sub-section (2) above, the following is sufficient evidence:

- (a) the documents showing the relevant conditions are met, duly issued by the competent authorities of the relevant State of origin of the migrant, the relevant State from which the migrant comes or the relevant State in which the migrant formerly qualified or practised; or
- (b) where those authorities do not issue such documents, a declaration on oath or solemn declaration to the required effect, made by the migrant before a competent judicial or administrative authority or (where appropriate) a notary or duly qualified professional body of the appropriate relevant State; provided that in each case such declaration is authenticated by a certificate issued by the authority, notary or body.

(4) A designated authority which requires of persons wishing to practise a certificate of physical or mental health, shall accept as sufficient evidence thereof the documents required for such a purpose in the relevant State of origin of the migrant, the relevant state from which the migrant comes or the relevant State in which the migrant formerly qualified or practised, or (where none is required in those States) a certificate issued by a competent authority there which corresponds to the certificate for that purpose in Gibraltar.

(5) A designated authority may require any document or certificate referred to in subsection (2) or (4) above to be presented no more than three months after the date of its issue.

(6) Where a designated authority requires an applicant to take an oath or make a solemn declaration, the form of which is such that it cannot be taken or made by nationals of a relevant State, it shall ensure that an appropriate equivalent form of oath or declaration is available for those nationals.

(7) A designated authority which requires of an applicant for authorisation to practice proof of financial standing shall, in respect of a migrant, regard certificates issued by banks in the home relevant state as equivalent to those issued by banks in Gibraltar.

(8) Subject to subsection (8) a designated authority which requires proof that an applicant for authorisation to practice is insured against the financial risks arising from the applicant's professional liability shall in respect of a migrant accept certificates issued by insurance undertakings of other relevant States as equivalent to those issued by insurance undertakings in Gibraltar.

(9) Any certificate referred to in subsection (8) shall state that the insurer has complied with the laws and regulations in force in Gibraltar regarding the terms and extent of cover and shall be presented no more than three months after the date of issue.

**Use of professional title.**

38.(1) A migrant who has been granted authorisation to practise a regulated profession pursuant to this Act shall have the right to use—

- (a) the professional title and designatory letters applicable to that profession in Gibraltar; and
- (b) the lawful academic title (and where appropriate the abbreviation thereof) acquired by him in the relevant State in which he qualified and in the language of that State.

(2) Where the migrant makes use of the possibility provided for in subsection (1)(b) above, the designated authority may require that the title shall be followed by the name and location of the establishment or examining board which awarded it.

(3) Where membership of a professional body is subject to any qualification requirements, such requirements may be applied to a migrant who satisfies condition (a) or (b) of section 33(1) only so far as they are consistent with the provisions of this Act.

## **Special provisions for company auditors.**

39.(1) In this section—

“the Act “ means the Auditors Registration Act; and

“auditor” has the meaning given in the Act.

(2) The Auditors Registration Board is the designated authority for the regulated profession of company auditor and may accordingly authorise a migrant as qualified to practise that profession.

(3) A migrant so authorised shall be eligible for appointment as a company auditor only if he satisfies the conditions for eligibility laid down in the Act.

(4) Notwithstanding anything in the Act, in the case of a migrant who has been granted authorisation to practise by the Auditors Registration Board pursuant to this Act and who has satisfied any requirements imposed by that Board under section 34, (within the meaning of section 4A(1) of the Act) that Board may not exclude the migrant from membership, or otherwise limit his eligibility for appointment, on any ground related to his previous education and training or to the length of his previous professional experience or practice.

## **Special provision as to lawyers.**

40. Nothing in this Act shall affect any provision of the Supreme Court Act which regulates the professions of solicitors and barristers.

## **Decisions of designated authorities and appeals.**

41.(1) A designated authority for a regulated profession shall consider the migrant’s application as soon as is reasonably practicable, and shall notify him of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

(2) Where a designated authority imposes a requirement pursuant to sub-section (1) of section 34, the decision referred to above shall include—

- (a) in the case of a period of professional experience, a determination of the length of that period;
- (b) in the case of an adaptation period, a determination of the length of the period and the training, if any, required;
- (c) in the case of an aptitude test, a determination of the matters to be covered by the test.

(3) For the purposes of this section, if a designated authority fails to take a decision and notify it to the migrant within the period in sub-section (1) above, it shall be deemed to have taken a decision to reject his application and to have notified it to him on the last day of that period.

(4) Within three months of the notification to him of the designated authority's decision, or thereafter with leave of the appeal body, the migrant may appeal against the decision to the appeal body specified in Schedule 8.

(5) An appeal body for a regulated profession may, for the purpose of determining any appeal under this Act against the decision of a designated authority—

- (a) give any authorisation to practise and impose any condition which the designated authority could give or impose in relation to that profession; or
- (b) remit the matter to the designated authority with such directions as the appeal body sees fit.

(6) The Minister may make rules of procedure governing the hearing and determination of any appeal under this Part against the decision of a designated authority; and such rules may make different provisions for different cases.

**Information from designated authorities.**

42. Designated authorities shall provide the Minister with such information (including statistical information) as it may require concerning applications made and decisions taken under this Act.

**Orders in respect of Schedule 3 and Schedule 5.**

43. The Minister may, by Order published in the Gazette, add to or remove from the provisions of Schedule 3 and Schedule 5.

**Power to make regulations.**

44. In addition to any other power to make regulations under this Act, the Minister may make regulations—

- (a) to carry out anything that must be done pursuant to, and give effect to, the provisions of this Act;
- (b) without prejudice to the generality of the foregoing, for the good administration of this Act.

**SCHEDULE 1**

Section 2

**SCOPE OF THE ACT**

**PART I**

**DIRECTIVES ESTABLISHING ARRANGEMENTS FOR MUTUAL  
RECOGNITION OF DIPLOMAS OF SPECIFIC PROFESSIONS  
AND PROFESSIONAL ACTIVITIES**

75/362/EEC: (OJNoL 167,30.6.1975, p.1) Council Directive of 16 June 1975 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, supplemented by Council Directive 81/1057/EEC, OJ No L 385,31.12.1981, p.25, and amended by Council Directives 82/176/EEC, OJ No L 43,15.2.1982, p.21 and 89/594/EEC, OJ No L 341,23.11.1989, p.19;

77/452/EEC: (OJNoL 176,15.7.1977, p.1.) Council Directive of 27 June 1977 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications of nurses responsible for general care measures to facilitate the effective exercise of this right of establishment and freedom to provide services, supplemented by Council Directive 81/1057/EEC, OJ No L 385,31.12.1981, p.25, and amended by Council Directive 89/594/EEC, OJNoL 341,23.11.1989, p.19;

78/686/EEC: (OJNo L 233,24.8.1978, p.1.) Council Directive of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, supplemented by Council Directive 81/1057/EEC, OJNoL 385,31.12.1981, p.25, and amended by Council Directive 89/594/EEC, OJ No L 341,23.11.1989, p.19;

78/1026/EEC: (OJNo L 362,23.12.1978, p.1.) Council Directive of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and

freedom to provide services, supplemented by Council Directive 81/1057/EEC, OJ No L 385,31.12.1981, p.25, and amended by Council Directive 89/594/EEC, OJ No L 341,23.11.1989, p.19;

80/154/EEC: (OJNoL33,11.2.80,p. 1.) Council Directive of 21 January 1980 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in midwifery and including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, amended by Council Directive 89/594/EEC, OJ No L 341.23.11.1989, p.19;

85/384/EEC: (OJNo L 223,21.8.1985, p.15.) Council Directive of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services;

85/433/EEC: (OJNo L 253,24.9.1985, p.37) Council Directive of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of this right of establishment relating to certain activities in the field of pharmacy;

87/540/EEC: (OJNoL322,12.11.1987, p.20.) Council Directive of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation;

93/16/EEC: (OJNo L 165,7.7.93, p.1) Council Directive of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diploma, certificate and other evidence of formal qualifications.

## **PART II**

### **DIRECTIVES CONCERNING FREEDOM OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES OR TRANSITIONAL MEASURES IN RESPECT OF ACTIVITIES**

64/429/EEC: (OJNo 117,23.7.1964, p 1880/64.) Council Directive of 7 July 1964, concerning the attainment of freedom of establishment and freedom to provide services in respect of

activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 2340 (Industry and small craft industries);

64/427/EEC: (OJNo 117,23.7.1964, p. 1863/64) Council Directive of 7 July 1964, laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 2340 (Industry and small craft industries);

68/365/EEC: (OJNoL 260,22.10.1968, p.9.) Council Directive of 15 October 1968, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the food manufacturing and beverage industries falling (ISIC Major Groups 20 and 21);

68/366/EEC: (OJNO L 260, 22.10.1968, p.1.) Council Directive of 15 October 1968, laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the food manufacturing and beverage industries falling (ISIC Major Groups 20 and 21);

64/223/EEC: (OJNo 56,4.4.1964, p. 863/64.) Council Directive of 25 February 1964, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities in wholesale trade;

64/224/EEC: (OJNo 56,4.4.1964, p. 869/64.) Council Directive of 25 February 1964, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of intermediaries in commerce, industry and small craft industries;

64/222/EEC: (OJNo 56,4.4.1964, p. 857/64.) Council Directive of 25 February 1964, laying down detailed provisions concerning transitional measures in respect of activities in wholesale trade and activities of intermediaries in commerce, industry and small craft industries;

68/363/EEC: (OJNo L 260,22.10.1968, p.1.) Council Directive of 15 October 1968, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in retail trade (ISIC ex Group 612);



68/364/EEC: (OJNo L 260,22.10.1968, p.6.) Council Directive of 15 October 1968, laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in retail trade (ISIC ex Group 612);

70/522/EEC: (OJNoL267,10.12.1970, p.14.) Council Directive of 30 November 1970 concerning the attainment of freedom to provide services in respect of activities of self-employed persons in wholesale coal trade and activities of intermediaries in the coal trade (ISIC ex Group 6112);

70/523/EEC; (OJNo L 267,10.12.1970, p.18) Council Directive of 30 November 1970 laying down detailed provisions concerning transitional measures in respect of activities of intermediaries in the coal trade (SIC ex Group 6112);

74/557/EEC: (OJNo L 307,18.11.1974, p.5.) Council Directive of 4 June 1974 on the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products;

74/556/EEC; OJNo L 307,18.11.1974, p.1 Council Directive of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries;

68/367/EEC; (OJNo L 260,22.10.1968, p.16) Council Directive of 15 October 1968 the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the personal services sector (ISIC ex. Major Group 85) -

1. restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852)
2. hotels, rooming houses, camps and other lodging places (ISIC Group 853);

68/368/EEC: (OJNo L 260,22.10.1968, p.19.) Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the personal services sector (ISIC ex Major Group 85) -

1. restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852)
2. hotels, rooming houses, camps and other lodging places (ISIC Group 853);

77/92/EEC: (OJNoL26,31.1.1977, p.14.) Council Directive of 13 December 1976 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of the activities of insurance agents and brokers (ex ISIC Group 630) and, in particular, transitional measures in respect of those activities;

82/470/EEC: (OJNo L 213,21.7.1982, p.1.) Council Directive of 29 June 1982 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in certain services incidental to transport and travel agencies (ISIC 718) and in storage and warehousing ('SIC group 720);

82/489/EEC: (OJNo L218,27.7.1982, p.24.) Council Directive of 19 July 1982 laying down measures to facilitate the effective exercise of the right of establishment and freedom to provide services in hairdressing;

75/368/EEC: (OJNoL 167,30.6.1975, p. 22.) Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of various activities (ex ISIC Division 0 1 to 85) and, in particular, transitional measures in respect of those activities;

75/369/EEC: (OJNoL 167,30.6.1975, p.29.) Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of itinerant activities and, in particular, transitional measures in respect of those activities;

**SCHEDULE 2**

Sections 11,12, 18,19,20

**CIRCUMSTANCES IN WHICH DESIGNATED AUTHORITIES ARE  
REQUIRED NOT TO REFUSE TO AUTHORISE THE TAKING UP  
OR PURSUIT OF A PROFESSION**

**PART I  
CONDITIONS FOR THE AUTHORISATION OF THE PRACTICE  
OF A PROFESSION REGULATED IN GIBRALTAR  
AT THE LEVEL OF A DIPLOMA OR A CERTIFICATE**

1. This paragraph applies if the migrant holds either -

- (a) a First General System Diploma; or
- (b) a Second General System Diploma; or
- (c) a Certificate,

being the Diploma or Certificate required in another relevant State for the practice of the profession within the territory of that State.

2. This paragraph applies if the migrant—

- (a) possesses evidence of education and training which satisfies—
  - (i) paragraph 6 below; and
  - (ii) the evidential requirements of either paragraph 7 or paragraph 8 below or, where it applies, paragraph 9 below; and
- (b) in a case in which the requirement of professional experience is permissible under paragraph 17 below and is imposed by the designated authority, meets the practising requirements of paragraph 16 below.<sup>3</sup> This paragraph applies if the migrant—
  - (a) possesses evidence of education and training which satisfies—
    - (i) paragraph 6 below; and
    - (ii) the evidential requirements of paragraph 11 below; and

- (b) in a case in which the requirement of professional experience is permissible under paragraph 17 below and is imposed by the designated authority, meets the practising requirements of paragraph 16 below.
4. This paragraph applies if the migrant–
- (a) possesses evidence of education and training which satisfies–
    - (i) paragraph 6 below; and
    - (ii) the evidential requirements of either paragraph 7 or paragraph 11 below or, where it applies, paragraph 12 below; and
  - (b) in a case in which the requirement of professional experience is permissible under paragraph 17 below and is imposed by the designated authority, meets the practising requirements of paragraph 16 below.
5. This paragraph applies if; during the previous ten years, the migrant has pursued the profession either full-time for at least three consecutive years or part-time for an equivalent period in another relevant State which does not regulate the profession.

**PART II**  
**EVIDENCE OF EDUCATION AND TRAINING**

6. The education and training of which the holder possesses evidence must, in every case to which this paragraph applies, have been such as to have prepared the holder for the pursuit of the profession.
7. Evidence of education and training satisfies this paragraph if it has been awarded by a competent authority in a relevant State and it shows that the holder has successfully completed a post-secondary course of the kind described in paragraph 14 below.
8. Evidence of education and training satisfies this paragraph if it has been awarded by a competent authority in a relevant State and it attests to one of the courses of regulated education and training listed in Part I of Schedule 4.
9. Subject to paragraph 10 below, evidence of education and training satisfies this paragraph if–
- (a) it has been awarded by a competent authority in a relevant State on the completion of education and training in the Community; and

- (b) it is recognised in that relevant State as being of an equivalent level to evidence of education and training constituting either a First General System Diploma or a Second General System Diploma or which satisfies paragraph 7 or 8 above.

10. Paragraph 9 above only applies if the recognition given to the evidence of education and training by the relevant State has been notified to the other relevant States and to the European Commission.

11. Evidence of education and training satisfies this paragraph if it has been awarded by a competent authority in a relevant State and either—

- (a) it shows that the holder, having followed a secondary course of a technical or vocational nature has, where necessary, completed either—
  - (i) a course of education and training such as is described in paragraph 15 below; or
  - (ii) the probationary or professional practice which is integral to the secondary course; or
- (b) it shows that the holder, having followed a secondary course other than a course of a technical or vocational nature has completed either—
  - (i) a course of education and training such as is described in paragraph 15 below and, where appropriate, the professional training which may be required in addition to that course; or
  - (ii) has completed the probationary or professional practice which is integral to the secondary course.

12. Subject to paragraph 13 below, evidence of education and training satisfies this paragraph if—

- (a) it has been awarded by a competent authority in a relevant State on the completion of education and training in the Community; and
- (b) it is recognised in that relevant State as being of an equivalent level to evidence of education and training which satisfies paragraph 11 above.

13. Paragraph 12 above only applies if the recognition given to the evidence of education and training by the relevant State has been notified to the other relevant States and to the European Commission.

14. A post-secondary course of the kind referred to in paragraph 7 above will be one—

- (a) which, if pursued full-time, is of at least one year's duration or, if pursued part-time, is of equivalent duration; and
- (b) one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education,

but will not be a course of three or more years' duration if pursued full-time, or of an equivalent duration if pursued part-time, completed at a university or establishment of higher education or another establishment of similar level.

15. A course of education and training of the kind referred to in paragraph 11 above will be provided either—

- (a) at an educational or training establishment; or
- (b) on the job; or
- (c) in a combination of (a) and (b).

but will not be a course of the kind evidenced by a First or Second General System Diploma.

**PART III**  
**REQUIREMENTS OF PROFESSIONAL EXPERIENCE**

16. The practising requirements referred to in this Schedule are that during the previous ten years, the migrant has pursued the profession either full-time for at least two years or part-time for an equivalent period in another relevant State which does not regulate the profession.

17. The practising requirements of paragraph 16 above are permissible only in the case in which the evidence of education and training held by the migrant relates to education and training other than regulated education and training.

SCHEDULE 3

Section 5(1)(b)

**LIST OF COURSES EVIDENCE OF SUCCESSFUL COMPLETION  
OF WHICH IS CONSTITUENT OF A SECOND GENERAL SYSTEM  
DIPLOMA WITHIN THE MEANING OF SECTION 4(1)(b)**

**PART I  
COURSES REFERABLE TO THE PRACTICE OF A PROFESSION  
IN ANOTHER RELEVANT STATE**

**1. Paramedical and childcare training course.**

Training for the following—

*In the Czech Republic—*

health care assistant (“Zdravotnický asistent”),

which represents education of a total duration of at least 13 years, comprising at least 8 years of elementary education and 4 years of vocational secondary education at a secondary medical school, completed by the “maturitní zkouška” exam;

nutrition assistant (“Nutri ní asistent”),

which represents education of a total duration of at least 13 years, comprising at least 8 years of elementary education and 4 years of vocational secondary education at a secondary medical school, completed by the “maturitní zkouška” exam.

*In Germany—*

- paediatric nurse  
(‘Kinderkrankenschwester/Kinderkrankenpfleger’);
- physiotherapist (‘Krankengymnast(in)/Physiotherapeut(in)’),
- occupational therapist (‘Beschäftigungs - und  
Arbeitstherapeut(in)’),
- speech therapist (‘Logopäde/Logopädin’),
- orthoptist (‘Orthoptist(in)’),

- State-recognized childcare worker ('Staatlich anerkannte(r) Erzieher(in)'),
- State-recognized remedial teacher ('Staatlich anerkannte(r) Heilpädagog(-in)'),
- medical laboratory technician ('medizinisch-technische(r) Laboratoriums-Assistent(in)'),
- medical X-ray technician ('medizinisch-technische(r) Radiologie-Assistent(in)'),
- medical functional diagnostics technician ('medizinisch-technische(r) Assistent(in) für Funktionsdiagnostik'),
- veterinary technician ('veterinärmedizinisch-technische(r) Assistent(in)'),
- dietitian ('Diatassistent(in)'),
- pharmacy technician ('Pharmazieingenieur') received prior to 31 March 1994 in the former German Democratic Republic or in the territory of the new *Länder*,
- psychiatric nurse ('Psychiatrische(r) Krankenschwester/Krankenpfleger'),
- speech therapist (Sprachtherapeut(in)).

*In Italy—*

- dental technician ('odontotecnico'),
- optician ('ottico'),
- chiropodist ('podologo').

*In Cyprus—*

training for—

- dental technician (“ ”),

which represents education of a total duration of at least 14 years, comprising at least 6 years of elementary education, 6 years of secondary education and 2 years of post-secondary



vocational education, followed by 1 year of professional experience.

- optician (“ ”),

which represents education of a total duration of at least 14 years, comprising at least 6 years of elementary education, 6 years of secondary education and 2 years of post-secondary education, followed by 1 year of professional experience.

*In Latvia–*

training for–

- dental nurse (“zob rstniec bas m sa”),

which represents education of a total duration of at least 13 years, comprising at least 10 years of general school education and 2 years of professional education in medical school, followed by 3 years of professional experience at the end of which a certification exam must be passed to obtain a certificate in the speciality.

- biomedical laboratory assistant (“biomedic nas laborants”),

which represents education of a total duration of at least 12 years, comprising at least 10 years of general school education and 2 years of professional education in medical school, followed by 2 years of professional experience at the end of which a certification exam must be passed to obtain a certificate in the speciality.

- dental technician (“zobu tehni is”),

which represents education of a total duration of at least 12 years, comprising at least 10 years of general school education and 2 years of professional education in medical school, followed by 2 years of professional experience at the end of which a certification exam must be passed to obtain a certificate in the speciality.

- physiotherapist’s assistant  
 (“fizioterapeita asistents”),

which represents education of a total duration of at least 13 years, comprising at least 10 years of general school education and 3 years of professional education in medical school,

followed by 2 years of professional experience at the end of which a certification exam must be passed to obtain a certificate in the speciality.

*In Luxembourg–*

- medical X-ray technician (assistant(e) technique me'dical(e) en radiologie),
- medical laboratory technician (assistant(e) technique medical(e) de laboratoire),
- psychiatric nurse (Infirmier/iere psychiatrique),
- medical technician - surgery (assistant(e) technique medical(e) en chirurgie),
- paediatric nurse (infirmier/ere puericulteur/trice),
- nurse - anaesthetics (infirmierliere anesthesiste),
- qualified masseur/masseuse (masseur/euse diplome(e)),
- childcare worker (educateur/trice),

*In The Netherlands–*

- veterinary assistant (“dierenartassistent”),

which represent education and training courses of a total duration of at least thirteen years, comprising–

- (i) either at least three years of vocational training in a specialized school culminating in an examination, in some cases supplemented by a one or two-year specialisation course culminating in an examination;
- (ii) or at least two and a half years of vocational training in a specialized school culminating in an examination and supplemented by work experience of at least six months or by a traineeship of at least six months in an approved establishment;
- (iii) or at least two years of vocational training in a specialized school culminating in an

examination and supplemented by work experience of at least one year or by a traineeship of at least one year in an approved establishment.

- (iv) or in the case of the veterinary assistant (“di erenartassisten”) in the Netherlands three years of vocational training in a specialized school (“MBO”-scheme) or alternatively three years of vocational training in the dual apprenticeship system (“LLW”), both of which culminate in an examination.

*In Austria–*

training for–

- special basic training for nurses specialising in the care of children and young people,
- special basic training for psychiatric nurses,
- contact lens optician (“Kontaktlinsenoptiker”),
- pedicurist (“Fusspfleger”),
- acoustic-aid technician (“Horgerateakustiker”),
- druggist (“Drogist<sup>4</sup>),

which represent education and training courses of a total duration of at least fourteen years, including at least five years' training followed within a structured training framework, divided into an apprenticeship of at least three years' duration, comprising training partly received in the workplace and partly provided by a vocational training establishment, and a period of professional practice and training, culminating in a professional examination conferring the rights to exercise the profession and to train apprentices,

- masseur (“Masseur”),

which represents education and training courses of a total duration of fourteen years, including five years' training within a structured training framework, comprising an apprenticeship of two years duration, a period of professional practice and training of two years' duration and a training course of one year culminating in a professional examination conferring the rights to exercise the profession and to train apprentices,

- kindergarten worker (“Kindergartner/in”),
- child care worker (“Erzieher”),

which represent education and training courses of a total duration of thirteen years, including five years of professional training in a specialized school, culminating in an examination.

*In Slovakia-*

training for–

- teacher in the field of dance at basic schools of art (“učiteľ v tanečnom odbore na základných umeleckých školách”),

which represents education of a total duration of at least 14,5 years, comprising 8 years of basic education, 4 years of education at the secondary specialised school and a 5 semester course of dance pedagogy.

- educator at special educating facilities and at social service facilities (“vychovávateľ v špeciálnych výchovných zariadeniach a v zariadeniach sociálnych služieb”),

which represents education of a total duration of at least 14 years, comprising 8/9 years of basic education, 4 years of study at secondary pedagogical school or at another secondary school and 2 years of supplementary part-time pedagogical study.

**2. Master craftsman sector ('Mester/Meister/Maitre<sup>t</sup>) which represents education and training courses concerning skills not covered by the Directive listed in Annex A.**

Training for the following–

*In Denmark–*

- optician ('optometrist'),

this course is of a total duration of 14 years, including five years' vocational training divided into two-and-a-half years' theoretical training provided by the vocational training establishment and two-and-a-half years' practical training received in the workplace, and culminating in a recognised examination, relating to the craft and conferring the right to use the title 'Mester';

- orthopaedic technician ('ortopaedimekaniker')

this course is of a total duration of 12.5 years, including three-and-a-half years vocational training divided into six months' theoretical training provided by the vocational training establishment and three years' practical training received in the workplace, and culminating in a recognized examination relating to the craft and conferring the right to use the title 'Mester';

- orthopaedic boot and shoemaker ('ortopaediskomager')

this course is of a total duration of 13.5 years, including four-and-a-half years' vocational training divided into two years' theoretical training provided by the vocational training establishment and two-and-a-half years' practical training received in the workplace, and culminating in a recognized examination relating to the craft and conferring the right to use the title 'Mester'.

*In Germany–*

- optician ('Augenoptiker'),
- dental technician ('Zahntechniker'),
- surgical truss maker ('Bandagist'),
- hearing-aid maker ('Horgerate-Akustiker'),
- orthopaedic technician ('Orthopadiemechaniker'),
- orthopaedic bootmaker ('Orthopadieschuhmacher')

*In Luxembourg–*

- dispensing optician ('opticien')
- dental technician ('mecanicien dentaire'),
- hearing-aid maker ('audioprothesiste'),
- orthopaedic technician/surgical truss maker ('mecanicien orthopesiste/bandagiste'),
- orthopaedic bootmaker ('orthopediste-cordonnier').

These courses are of a total duration of 14 years, including at least five years' training followed within a structured training framework, partly

received in the workplace and partly provided by the vocational training establishment, and culminating in an examination which must be passed in order to be able to practise any activity considered as skilled, either independently or as an employee with a comparable level of responsibility.

*In Austria–*

- surgical truss maker (“Bandagist”),
- corset maker (“Miederwarenerzeuger”),
- optician (“Optiker”),
- orthopaedic shoemaker (“Orthopadieschuhmacher”),
- orthopaedic technician (“Orthopadietechniker”),
- dental technician (“Zahntechniker<sup>1)</sup>),
- gardener (“Gartner”),

which represent education and training of a total duration of at least fourteen years, including at least five years' training within a structured training framework, divided into an apprenticeship of at least three years' duration, comprising training received partly in the workplace and partly provided by a vocational training establishment, and a period of professional practice and training of at least two years' duration culminating in a mastership examination conferring the rights to exercise the profession, to train apprentices and to use the title “Meister”,

training for master craftsmen in the field of agriculture and forestry, namely–

- master in agriculture (“Meister in der Landwirtschaft”),
- master in rural home economics (“Meister in der landlichen Hauswirtschaft”),
- master in horticulture (“Meister im Gartenbau”),
- master in market gardening (“Meister im Feldgemusebau”),
- master in pomology and fruit-processing (“Meister im Obstbau und in der Obstverwertung”),
- master in viniculture and wine-production (“Meister im Weinbau und in der Kellerwirtschaft”),

- master in dairy farming (“Meister in der Molkerei und Kasereiwirtschaft”),
- master in horse husbandry (“Meister in der Pferdewirtschaft”),
- master in fishery (“Meister in der Fischereiwirtschaft”),
- master in poultry farming (“Meister in der Geflügelwirtschaft”),
- master in apiculture (“Meister in der Bienenwirtschaft”),
- master in forestry (“Meister in der Forstwirtschaft”),
- master in forestry plantation and forest management (“Meister in der Forstgarten- und Forstpflanzwirtschaft”),
- master in agriculture warehousing (“Meister in der landwirtschaftlichen Lagerhaltung”),

which represent education and training of a total of at least 15 years, including at least six years' training followed within a structured training framework divided into an apprenticeship of at least three years' duration, comprising training partly received in the workplace and partly provided by a vocational training establishment, and a period of three years of professional practice culminating in a mastership examination relating to the profession and conferring the rights to train apprentices and to use the title “Meister”.

*In Poland—*

training for—

- teacher for practical vocational training (“Nauczyciel praktycznej nauki zawodu”),

which represents education of a duration of either;

- (i) 8 years of elementary education and 5 years of vocational secondary education or equivalent secondary education in a relevant field followed by the course in pedagogy of a total duration of at least 150 hours, the course in work safety and work hygiene, and 2 years of professional experience in the profession one is going to teach; or

(ii) 8 years of elementary education and 5 years of vocational secondary education and diploma of graduation from a post-secondary pedagogical technical school; or

(iii) 8 years of elementary education and 2-3 years of basic vocational secondary education and at least 3 years of professional experience certified by a degree of master in the particular profession followed by a course in pedagogy of a total duration at least 150 hours.

In Slovakia—

training for—

- master in vocational education (“majster odbornej výchovy”),

which represents education of a total duration of at least 12 years, comprising 8 years of basic education, 4 years of vocational education (complete vocational secondary education and/or apprenticeship in the relevant (similar) vocational training or apprenticeship course), professional experience of a total duration of at least 3 years in the field of the person’s completed education or apprenticeship and supplementary pedagogical study at the faculty of pedagogy or at the technical universities, or complete secondary education and apprenticeship in the relevant (similar) vocational training or apprenticeship course, professional experience of a total duration of at least 3 years in the field of the person’s completed education or apprenticeship, and additional study of pedagogy at the faculty of pedagogy, or by 1 September 2005 specialised education in the field of special pedagogy provided for in the methodology centres for masters in vocational education at the special schools without supplementary pedagogical study.

### **3. Seafaring Sector.**

a) Transport—

Training for the following—

*In the Czech Republic—*

- deck assistant (“Palubní asistent”),
- officer in charge of a navigational watch (“Námo ní poru ík”),



- chief mate (“První palubní d stojník”),  
master (“Kapitán”),
- engine assistant (“Strojní asistent”),
- officer in charge of an engineering watch (“Strojní d stojník”),
- second engineer officer (“Druhý strojní d stojník”),
- chief engineer officer (“První strojní d stojník”),
- electrician (“Elektrotechnik”),
- chief electric officer (“Elektrod stojník”).

*In Denmark–*

- ship's captain ('skibsforer'),
- first mate ('overstyrmænd')
- quartermaster, deck officer ('enestyrmand, vagthavende styrmand'),
- deck officer ('vagthavende styrmand')
- engineer ('maskinchef')
- first engineer ('1.maskinmester')
- first engineer/duty engineer ('1. maskirimester/vagthavende maskinmester')

*In Germany–*

- captain, large coastal vessel ('Kapitan AM'),
- captain, coastal vessel ('Kapitan AK'),
- deck officer, large coastal vessel ('Nautischer Schiffsoffizier AMW'),
- deck officer, coastal vessel ('Nautischer Schiffsoffizier AKW'),

- chief engineer, grade C ('Schiffsbetriebstechniker CT - Leiter von Maschinenanlagen'),
- ship's mechanic, grade C ('Schiffsmaschinist CMA - Leiter von Maschinenanlagen'),
- ship's engineer, grade C ('Schiffsbetriebstechniker CTW'),
- ship's mechanic, grade C - solo engineer officer ('Schiffsmaschinist CMAW - Technischer Alleinoffizier').

*In Italy—*

- deck officer ('ufficiale di coperta'),
- engineer officer ('ufficiale di macchina').

*In Latvia—*

- electrical engineer officer on ships ("Kū u elektromeh ni is"),
- operator of refrigeration machinery ("Kū a sald šanas iek rtu maš nists").

*In the Netherlands—*

- first mate (coastal vessel) (with supplementary training) 'stuurman kieme handelsvaart (met aanvulling)',
- coaster engineer (with diploma) ('diploma motordrijver'),
- VTS-official ("VTS-functionaris"),

which represents training—

- in the Czech Republic

for deck assistant ("Palubní asistent"),

A person not less than 20 years of age.

(ii)(a) Maritime academy or maritime college — department of navigation, both courses having to be completed by the "maturitní zkouška" exam, and approved seagoing service of not less than six months on ships during studies, or

- (b) Approved seagoing service of not less than two years as rating forming part of a navigational watch at the support level on ships, and completion of an approved course which meets the standard of competence specified in section A-II/1 of the STCW (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers) Code dispensed by a maritime academy or college of a Party to the STCW Convention, and passing the examination before the Examining Board recognised by the MTC (Maritime Transport Committee of the Czech Republic).

for officer in charge of a navigational watch  
("Námo ní poru ík"),

- (i) Approved seagoing service in the capacity of deck assistant on ships of 500 gross tonnage or more for not less than 6 months in the case of a graduate of a maritime college or academy, or one year in the case of a graduate of an approved course, including not less than six months in the capacity of a rating forming a part of a navigational watch.

- (ii) Duly completed and endorsed On Board Training Record Book for Deck Cadets.

for chief mate ("První palubní d stojník"),  
Certificate of competence of officer in charge of a navigational watch on ships of 500 gross tonnage or more and not less than twelve months of approved seagoing service in that capacity.

for master ("Kapitán"),  
Certificate for service as master on ships of between 500 and 3000 gross tonnage. Certificate of competence of chief mate on ships of 3000 gross tonnage or more and not less than 6 months of approved seagoing service in the capacity of chief mate on ships of 500 gross tonnage or more and not less 6 months of approved seagoing service in the capacity of chief mate on ships of 3000 gross tonnage or more.

for engine assistant ("Strojní asistent"),  
(i) A person not less than 20 years of age.  
(ii) Maritime academy or maritime college– department of maritime engineering, and approved seagoing service of not less than six months on ships during the studies.

for officer in charge of an engineering watch ("Strojní d stojník"),

Approved seagoing service in the capacity of engine assistant of not less than 6 months as a graduate from a maritime academy or college.

for second engineer officer (“Druhý strojní d stojník”),  
Approved seagoing service of not less than 12 months in the capacity of 3<sup>rd</sup> engineer officer on ships powered by main propulsion machinery of 750 Kw propulsion power and more.

for chief engineer officer (“První strojní d stojník”),  
Appropriate certificate for service as second engineer officer on ships powered by main propulsion machinery of 3 000 Kw propulsion power or more and having not less than 6 months of approved seagoing service in that capacity.

for electrician (“Elektrotechnik”),

- (i) A person not less than 18 years of age;
- (ii) Maritime or other academy, faculty of electrical engineering, or technical school or college of electrotechnical engineering, all courses having to be completed by the “maturitní zkouška” exam, and not less than 12 months of approved practice in the field of electrical engineering.

for chief electric officer (“Elektrod stojník”),

- (i) Maritime academy or college, faculty of maritime electrical engineering or other academy or secondary school in the field of electrical engineering, all courses having to be completed by the “maturitní zkouška” or a state exam;
- (ii) Approved seagoing service in the capacity of electrician for a period of not less than 12 months in the case of a graduate of an academy or college, or 24 months in the case of a graduate of a secondary school.

- in Denmark, of nine years' primary schooling followed by a course of basic training and/or service at sea of between 17 and 36 months, supplemented by–

- (i) for the deck officer, one year of specialized vocational training;

- (ii) for the others, three years of specialized vocational training,
  - in Germany, of a total duration of between 14 and 18 years, including a three-year course of basic vocational training and one year's service at sea, followed by one or two years of specialised vocational training supplemented, where appropriate, by two year's work experience in navigation,
  - in Italy, of a total duration of 13 years, of which at least five years consist of professional training culminating in an examination, and are supplemented, where appropriate, by a traineeship,
  - in Latvia- for electrical engineer officer on ships (“ku u elektromeh ni is”),
    - (i) A person not less than 18 years of age.
    - (ii) Represents an education of a total duration at least 12 years and 6 months, comprising at least 9 years of elementary education and at least 3 years of vocational education. In addition seagoing service of not less than 6 months as a ship’s electrician or as assistant to the electrical engineer on ships with generator power more then 750 Kw is required. Vocational training is completed by a special examination by the competent authority in accordance with the training programme as approved by the Ministry of Transport;

for operator of refrigeration machinery  
 (“ku a sald šanas iek rtu maš nists”),

- (i) A person not less than 18 years of age.
- (ii) Represents an education of a total duration of at least 13 years, comprising at least 9 years of elementary education and at least 3 years of vocational education. In addition seagoing service of not less than 12 months as assistant to the refrigeration engineer is required. Vocational training is completed by a special examination by the competent authority in

accordance with the training programme as approved by the Ministry of Transport.

- in the Netherlands–
  - (i) for first mate (coastal vessel) (with supplementary training) (“stuurman kieme handelsvaart (met aanvulling)”), and coaster engineer (with diploma) (“diploma motordrijver”), involving a course of 14 years, at least two years of which take place in a specialised vocational training establishment, supplemented by a twelve-month traineeship,
  - (ii) for the VTS-official (“VTS-functionaris”) of a total duration of at least 15 years, comprising at least three years of Higher Vocational Education (“HBO”) or Intermediate Vocational Training (“MBO”), which are followed by national and regional specialization courses, comprising at least 12 weeks of theoretical training each and culminating each in an examination,

and which are recognised under the International STCW Convention (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978).

- in Romania, for maritime helmsman II/ 4 ST CW (“timonier maritim”),
  1. A person not less than 18 years of age;
  2. (a) holds an appropriate certificate of competence of seaman (secondary school maritime studies); has completed a period of seagoing service of 24 months as seaman on board seagoing ships, out of which at least 12 months have been performed within the last five years; has attended an approved course for promotion to execution level (7 days); or
  - (b) holds an appropriate certificate of competence of seaman (secondary school maritime studies); and holds a certificate of competence of radio operator, techno-operator in the maritime mobile service; has completed a period of seagoing service of 24 months as seaman and

as radio operator, techo-operator in the maritime mobile service, or GMDSS-GOC operator; has attended an approved course for promotion to execution level (7 days).”; and

*In Romania*

- maritime helmsman II/ 4 ST CW (“timonier maritim”).

(b) Sea fishing—

Training for the following—

*In Germany—*

- captain, deep-sea fishing ('Kapitan BG/Fischerrei'),
- captain, coastal fishing ('Kapitan BKIFischerei'),
- deck officer, deep-sea vessel ('Nautischer Schiffsoffizier BGW/Fischerei'),
- deck officer, coastal vessel ('Nautischer Schiffsoffizier BKW/Fischerei'),

*In the Netherlands—*

- first mate/engineer V (stuurman werktuigkundige V'),
- engineer IV (fishing vessel) ('werktuigkundige IV visvaart'),
- first mate IV (fishing vessel) ('stuurman IV visvaart'),
- first mate/engineer VI ('stuurman werktuigkundige VI')

which represents training—

- in Germany, of a total duration of between 14 and 18 years, including a three-year course of basic vocational training and one year's service at sea, followed by one or two years of specialized vocational training supplemented, where appropriate, by two-years' work experience in navigation,
- in the Netherlands, involving a course varying in duration between thirteen and fifteen years, at least two years of which are provided in a specialized vocational

school, supplemented by a 12-month period of work experience,

and are recognized under the Torremolinos Convention (1977 International Convention for the Safety of Fishing Vessels).

#### 4. Technical sector–

Training for the following–

*In the Czech Republic–*

- authorised technician, authorised builder (“autorizovaný technik, autorizovaný stavitel”),

which represents vocational training of a duration of at least 9 years, comprising 4 years of technical secondary education, completed by the “maturitní zkouška” (secondary technical school exam), 5 years of professional experience and concluded by the professional qualification test for pursuit of selected professional activities in construction (pursuant to Act No 50/1976 Sb. (the Building Act) and Act No 360/1992 Sb.).

- track vehicle driver (“Fyzická osoba ídící drážní vozidlo”),

which represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational secondary education completed by the “maturitní zkouška” exam and concluded by the state exam on the motive power of vehicles.

- track revision technician (“Drážní revizní technik”),

which represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational secondary education at a secondary machinery or electronics school completed by the “maturitní zkouška” exam.

- road driving instructor (“U itel autoškoly”),

a person not less than 24 years of age;  
represents education of a total duration of at least 12 years, comprising at least 8 years of elementary



education and at least 4 years of vocational secondary education focused on traffic or machinery completed by the “maturitní zkouška” exam.

- state technician for the control of motor vehicle roadworthiness (“Kontrolní technik STK”),

a person not less than 21 years of age;  
represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational secondary education completed by the “maturitní zkouška” exam, followed by at least 2 years of technical practice; the person concerned must have a driving licence and a clean criminal record and must have completed the special training for State technicians of at least 120 hours’ duration as well as successfully passing the exam.

- mechanic for control of car emissions (“Mechanik m ení emisí”),

which represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational secondary education completed by the “maturitní zkouška” exam; furthermore an applicant has to complete at least 3 years’ technical practice and the special training for “mechanic for the control of car emissions” of 8 hours’ duration as well as successfully passing the exam.

- boat master Class I (“Kapitán I. T ídy”),

which represents education of a total duration of at least 15 years, comprising 8 years of elementary education and 3 years of vocational education completed by the “maturitní zkouška” exam and culminating in an examination confirmed by a certificate of aptitude. This vocational education has to be followed by 4 years’ vocational practice completed by an exam.

- restorer of monuments that are works of art crafts (“restaurátor památek, které jsou díly um leckých emesel”),

which represents education of a total duration of 12 years if involving full secondary technical education in the restoration course, or 10 to 12 years of study in a related

course, plus 5 years of professional experience in the case of full secondary technical education completed by the “maturitní zkouška” exam, or 8 years of professional experience in the case of secondary technical education ending with the final apprenticeship exam.

- restorer of works of art that are not monuments and are held in the collections of museums and galleries, and of other objects of cultural value (“restaurátor děl výtvarných umění, která nejsou památkami a jsou uložena ve sbírkách muzeí a galerií, a ostatních předmětů kulturní hodnoty”),

which represents education of a total duration of 12 years plus 5 years of professional experience in the case of full secondary technical education in the restoration course completed by the “maturitní zkouška” exam.

- waste manager (“odpadový hospodář”),

which represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of secondary vocational education completed by the “maturitní zkouška” exam and a minimum of 5 years of experience in the waste management sector within the last 10 years.

- blasting technical manager (“Technický vedoucí odstřel”),

which represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational secondary education completed by the “maturitní zkouška” exam, and followed by-

(a) 2 years as a shotfirer underground (for underground activity) or 1 year on surface (for surface activity); including 6 months as an assistant shotfirer;

(b) training course of 100 hours of theoretical and practical training followed by an examination before the relevant District Mining Authority;

(c) professional experience of 6 months or more in planning and carrying out major blasting works;

(d) training course of 32 hours of theoretical and practical training followed by an examination before the Czech Mining Authority.

*In Italy—*

- building surveyor (geometra'),
- land surveyor ('perito agrario'),

which represents secondary technical courses of a total duration of at least 13 years, comprising eight years' compulsory schooling followed by five years' secondary study, including three years vocational study, culminating in the Technical Baccalaureat examination, and supplemented—

- (i) for building surveyors by either a traineeship lasting at least two years in a professional office or five years' work experience;
- (ii) for land surveyors, by the completion of a practical traineeship lasting at least two years;

followed by the State Examination.

*In Latvia—*

- engine-railway sector driver's assistant ("vilces l dzek a vad t ja (maš nista) pal gs"),
- (a) a person not less than 18 years of age represents education of a total duration of at least 12 years, comprising at least 8 years of elementary education and at least 4 years of vocational education; vocational training completed by the employer's special examination; certificate of competence issued by a competent authority for 5 years.

*In the Netherlands—*

- bailiff ("gerechtsdeurwaarder"),
- dental-prosthesis maker ("tandprotheticus") -
- (i) in the case of the bailiff ("gerechtsdeurwaarder"), totaling 19 years, comprising eight years' compulsory schooling followed by eight years' secondary education including four years' technical education culminating in a State

examination and supplemented by three years' theoretical and practical vocational training;

- (ii) in the case of the dental-prosthesis maker (“tandprotheticus”) totaling at least 15 years of full time training and three years of part time training, comprising eight years of primary education, four years of general secondary education, completion of three years of vocational training, involving theoretical and practical training as a dental technician, supplemented by three years of part-time training as a dental prosthesis-maker, culminating in an examination.

*In Austria—*

- forester (“Forster”),
- technical consulting (“Technisches Buro”),
- labour leasing (“Urberlassung von Arbeitskräften - Arbeitsleihe”),
- employment agent (“Arbeitsvermittlung”),
- investment adviser (“Vermögensberater”),
- private investigator (“Berufsdetektiv”),
- security guard (“Bewachungsgewerbe”),
- real estate agent (“Immobilienmakler”),
- real estate manager (“Immobilienverwalter”)
- advertising and promotion agent (“Werbeagentur”),
- building project organiser (“Bautrager/Bauorganisator/Baubetreuer”),
- debt-collecting agent (“Inkassoburo/Inkassoinstitut”),

which represents education and training of a total duration of at least 15 years, comprising eight years' compulsory schooling followed by five years' secondary technical or commercial study, culminating in a technical or commercial mature level qualifying examination, supplemented by at least two years workplace education and training culminating in a professional examination,

- insurance consultant (“Berater in Versicherungsangelegenheiten”),

which represents an education and training course of a total duration of 15 years and includes six years' training followed within a structured training framework, divided into an apprenticeship of three-years' duration and a three-year period of professional practice and training, culminating in an examination,

- master builder/planning and technical calculation (<sup>1</sup>Planender Baumeister”),
- master woodbuilder/planning and technical calculation (“Planender Zimmermeister”),

which represents education and training of a total duration of at least 18 years, including at least nine years' vocational training divided into four years of secondary technical study and five years of professional practice and training culminating in a professional examination conferring the rights to exercise the profession and to train apprentices, in so far as this training relates to the right to plan buildings, to make technical calculations and to supervise construction work (“the Maria Theresian privilege”).

## *In Poland—*

- diagnostician executing motor vehicle roadworthiness tests at a vehicle control station at basic level (“Diagnosta przeprowadzaj cy badania techniczne w stacji kontroli pojazdów o podstawowym zakresie bada ”),

which represents 8 years of elementary education and 5 years of secondary technical education in the field of motor vehicles and 3 years' practice in a vehicle service station or in a garage, covering 51 hours of basic training in controlling motor vehicle roadworthiness and passing the qualification examination.

- diagnostician executing motor vehicle road worthiness tests at a district vehicle control station (“Diagnosta przeprowadzaj cy badania techniczne pojazdu w okr gowej stacji kontroli pojazdów”),

which represents 8 years of elementary education and 5 years of technical secondary education in the field of motor vehicles and 4 years' practice in a vehicle service

station or in a garage, covering 51 hours of basic training in controlling motor vehicle roadworthiness and passing the qualification examination.

- diagnostician executing motor vehicle roadworthiness tests at a vehicle control station (“Diagnosta wykonuj cy badania techniczne pojazdów w stacji kontroli pojazdów”),

which represents—

8 years of elementary education and 5 years of secondary technical education in the field of motor vehicles and 4 years’ proven practice in a vehicle service station or in a garage, or

8 years of elementary education and 5 years of secondary technical education in a field other than motor vehicle specialisation and 8 years’ proven practice in a vehicle service station or in a garage,

covering a total of 113 hours of complete training including basic and specialist training, with exams after every stage.

The duration in hours and the general scope of the particular courses in the framework of the complete training for diagnostician, are separately specified in the Minister of Infrastructure’s Regulation of 28 November 2002 on detailed requirements regarding diagnosticians (OJ of 2002, No. 208, item 1769).

- train dispatcher (“Dy urny ruchu”),

which represents 8 years of elementary education and 4 years of secondary vocational education, with rail transport specialisation, as well as a course preparing for work as a train dispatcher of 45 days and passing the qualification examination, or

which represents 8 years of elementary education and 5 years of secondary vocational education with rail transport specialisation, as well as a course preparing for work as a train dispatcher of 63 days and passing the qualification examination.

**PART II**  
**COURSES REFERABLE TO THE PRACTICE OF A PROFESSION**  
**IN GIBRALTAR**

**SCHEDULE 4**

Schedule 2

**LIST OF COURSES OF REGULATED EDUCATION AND TRAINING**

*In Germany—*

The following regulated courses—

- regulated courses preparatory to the pursuit of the professions of technical assistant ('technisch(r) Assistent(in)'), commercial assistant ('kaufmännisch(r) Assistent', social professions ('soziale Berufe') and the profession of State-certified respiration and elocution instructor ('staatlich geprüfte(r) Atem-, Sprech- und Stimmlehrer(in)'), of a total duration of at least 13 years, which require successful completion of the secondary course of education ('mittlerer Bildungsabschluss') and which comprise—
  - at least three years of vocational training at a specialized school ('Tachschule') culminating in an examination and, where applicable, supplemented by a one-year or two-year specialization course also culminating in an examination,
  - or at least two and a half years at a specialized school ('Fachschule') culminating in an examination and supplemented by work experience of a duration of not less than six months or a traineeship of not less than six months in an approved establishment,
  - or at least two years at a specialized school ('Fachschule') culminating in an examination and supplemented by work experience of a duration of not less than one year or a traineeship of not less than one year in an approved establishment,
- Regulated courses for the professions of State-certified ('staatlich geprüfte(r)') technician ('Techniker(in)'), business economist ('Betriebswirt(in)<sup>1</sup>), designer ('Gestalter(in)<sup>1</sup>) and family assistant ('Familienpfleger(in)'), of a total duration not less than 16 years, a prerequisite of which is successful

completion of compulsory schooling or equivalent education and training (of a duration of not less than nine years) and successful completion of a course at a trade school ('Berufsschule') of a duration of not less than three years and comprising, upon completion of at least two years of work experience, full-time education and training of a duration of not less than two years or part-time education and training of equivalent duration.

- Regulated courses and regulated in-service training, of a total duration of not less than 15 years, a prerequisite of which is, generally speaking, successful completion of compulsory schooling (of a duration not less than nine years) and of vocational training (normally three years) and which generally comprise at least two years of work experience (three years in most cases) and an examination in the context of in-service training preparation for which generally comprises a training course which is either concurrent with the work experience (at least 1,000 hours) or is attended on a full-time basis (at least one year).

*In the Netherlands—*

- Regulated training courses of a total duration of not less than 15 years, a prerequisite of which is successful completion of eight years of primary education plus four years of either intermediate general secondary education ("MAVO") or Preparatory Vocational Education ("VBO") or general secondary education of a higher level, and which require the completion of a three-year or four-year course at a college for intermediate vocational training ("MBO"), culminating in an examination.
- Regulated training courses of a total duration not less than 16 years, a prerequisite of which is successful completion of eight years of primary education plus four years of at least preparatory vocational education ('VBO') or a higher level of general secondary education, and which require the completion of at least four years of vocational training in the apprenticeship system, comprising at least one day of theoretical instruction at a college each week and on the other days practical training courses or in a firm, and culminating in a secondary or tertiary level examination.

*In Austria—*



- Courses at higher vocational schools (“Berufsbildende Höhere Schulen”) and higher education establishments for agriculture and forestry (“Hohre Land- und Forstwirtschaftliche Lehranstalten”), including special types (I einschließlich der Sonderformen”), the structure level of which are determined by law, regulations and administrative provisions,

these courses have a total length of not less than 13 years and comprise five years of vocational training, which culminate in a final examination, the passing of which is proof of professional competence.

- Courses at master schools (“Meisterschulen”), master classes (“Meisterklassen”), industrial master schools (“Werkmeisterschulen”) or building craftsmen schools (“Bauhandwerkerschulen), the structure and level of which are determined by law, regulations and administrative provisions,

these courses have a total length of not less than 13 years, comprising nine years of compulsory education, followed by either at least three years of vocational training at a specialised school or at least three years of training in a firm and in parallel at a vocational training school (MBerufsschuleI), both of which culminate in an examination, and are supplemented by successful completion of at least a one-year training course at a master school (‘Meisterschule’), master classes (“Meisterklassen”), industrial master school (<sup>1</sup>Werkmeisterschule”) or a building craftsmen school (“Bauhandwerkerschule”). In most cases the total duration is at least 15 years, comprising periods of work experience, which either precede the training courses at these establishments or are accompanied by part-time courses (at least 960 hours).

**SCHEDULE 5**

Sections 30(1), 32 and 38(3)

**PROFESSIONS REGULATED BY LAW OR PUBLIC AUTHORITY**

<b>Profession</b>	<b>Designated Authority</b>
Barrister	Chief Justice
Solicitor	Chief Justice
Commissioner for Oaths	Registrar of the Supreme Court
Notary Public	Registrar of the Supreme Court
Company Auditor	Auditors Registration Board

**SCHEDULE 6**

Section 34(1)

**PROVISIONS REGARDING THE LENGTH OF A REQUIRED  
PERIOD OF PROFESSIONAL EXPERIENCE**

1. For the purposes of this Schedule, “the shortfall” means the difference between—
  - (a) the period of education and training received by the migrant (as established by him pursuant to section 5); and
  - (b) the period required of native applicants.
2. Subject to paragraph 6 of this Schedule, to the extent that the shortfall (or part of it) relates to post-secondary studies, or to a period of supervised probationary practice ending with an examination, the required period may not exceed twice the shortfall (or that part of it).
3. Subject to paragraph 6 of this Schedule, to the extent that the shortfall (or part of it) relates to professional practice acquired with the assistance of a qualified member of the profession, the required period may not exceed the shortfall (or that part of it).
4. Where the migrant’s qualification is one which, for the purposes of section 2(1) (definition of “diploma”, or of section 5(2), has been recognised as equivalent to one involving a post-secondary course, the duration of the education and training received by the migrant shall be deemed to be that required for the latter qualification.
5. In determining the length of the required period, the period of practice referred to in section 5(1)(b) shall be taken into account.
6. A period may be required in respect of both of the matters referred to in paragraphs 2 and 3 of this Schedule, but the total period so required may not in any event exceed four years.

**SCHEDULE 7**

Section 34(2)

**PROFESSIONS IN RESPECT OF WHICH THE RIGHT OF THE  
MIGRANT TO CHOOSE BETWEEN AN ADAPTATION PERIOD  
AND AN APTITUDE TEST IS DISPLACED**

In the case of the following regulated professions, where a requirement is imposed pursuant to section 6(1)(b), the requirement shall be the passing of an aptitude test.

Barrister

Solicitor,

Notary Public,

Commissioner for Oaths,

Company Auditor.

**SCHEDULE 8**

Section 3(1)

**APPEAL BODIES**

<b>Profession</b>	<b>Appeal body</b>
Barrister	Court of Appeal
Solicitor	Court of Appeal
Notary Public	Court of First Instance