

I assent.

(L.S.)

GUIDO DE MARCO
President

20th September, 2002

ACT No. XVIII of 2002

AN ACT relating to the Mutual Recognition of Qualifications.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Mutual Recognition of Qualifications Act, 2002. Short title and commencement.

(2) This Act shall come into force on such date or dates as the Minister responsible for education may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and different provisions of this Act.

2. In this Act, unless the context otherwise requires -

Interpretation.

“Agreement” means an agreement between groups of states to which Malta is a party, reciprocally granting to citizens of such states or their dependants the right to enter, remain and reside in and leave the country of such state, to move freely within such states for such period as may be established in the agreement and to work or establish, provide or receive services therein; and “Agreement State” and “citizen of an Agreement State” shall be construed accordingly; and where a state is a party to such an Agreement subject to modifications and adaptations, a citizen of an Agreement State shall be subject to such modifications or adaptations as may be prescribed;

"applicant" means a person from an Agreement State applying to a designated authority for authorization to practise a regulated profession in Malta;

"application" means a request submitted by an applicant;

"competent authority", in relation to –

(a) any document, certificate, diploma or qualification, or attestation of competence; or

(b) a period of professional and vocational experience,

means the authority, body or person in an Agreement State authorized under the legislation or established practice of that State to issue, award or recognize such document, certificate, diploma or qualification, or attestation of competence or to certify any such period of professional and vocational experience;

"designated authority" means a licence, permit or warrant awarding body or authority in Malta designated for the mutual recognition of qualifications in relation to a regulated profession or regulated professional activity as listed in the First Schedule or as may be determined by regulations from time to time;

"diploma" includes any degree, diploma, certificate, attestation of competence, or other similar evidence of formal qualifications or of education and training awarded by a competent authority in an Agreement State designated according to the law of that state;

"Minister" unless otherwise specified, means the Minister responsible for education;

"practice" in relation to any regulated profession, includes –

(a) the taking up or pursuit of the profession, 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 any special status corresponding to a diploma, granted by a designated authority for that profession;

"professional experience" means the actual and lawful pursuit of the profession or professional activity concerned in an Agreement State;

"regulated profession and regulated professional activity" means those regulated professions and professional activities listed in the Schedules to this Act.

3. This Act shall apply to the professions and professional activities listed in the First Schedule hereof, provided that no applicant shall be entitled to practise a regulated profession or a regulated professional activity unless he fulfils the conditions for the taking up or pursuit of that profession or activity in accordance with the provisions of this Act or of any enactment listed in the Second Schedule to this Act.

Practice of a regulated profession.

4. A designated authority for a regulated profession shall consider an application as soon as it is reasonably practicable, and shall notify the applicant of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

Decision of designated authorities.

5. (1) The Minister shall designate a person to be known as the Mutual Recognition Coordinator to coordinate the activities of the designated authorities in Malta and to promote uniform application of this Act.

Mutual Recognition Coordinator.

(2) Designated authorities in Malta shall furnish the Mutual Recognition Coordinator, with any requested information as he may reasonably require for the purposes of his functions under this Act.

6. (1) The Minister shall set up a centre to be designated as the Malta Qualifications Recognition Information Centre.

Malta Qualifications Recognition Information Centre.

(2) The functions of this Centre shall include:

(a) the evaluation of diplomas;

(b) the provision of assistance to designated authorities, learning institutions and individuals, counterpart bodies and other interested parties in the comparative analysis and evaluation of qualifications;

(c) the collection and dissemination of information related to professional and vocational qualifications;

(d) the promotion of recognition of Maltese qualifications abroad;

(e) the enforcement and facilitation of the application of the articles regarding comparability of higher education, professional and vocational qualifications;

- (f) the facilitation of academic mobility; and
- (g) the promotion of transparency of qualifications.

Right of appeal.

7. (1) There shall be a Board, which shall have such number of divisions as the Minister may by order in the Gazette prescribe, to be known as the Mutual Recognition of Qualifications Appeals Board, hereinafter referred to as "the Board", and such Board shall consist of a chairperson and two other members who shall be appointed by the Prime Minister from among persons of known integrity who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for such purpose.

(2) The Minister may make regulations to regulate the distribution by types of appeals amongst the divisions of the Board, provided that no two divisions of the Board shall deal with the same types of appeals.

(3) A member of the Board shall abstain and may be challenged in such circumstances as would disqualify a judge in terms of Sub-Title II of Title II of Book Third of the Code of Organization and Civil Procedure; and in any such case either the member shall be substituted by another person appointed for the purpose by the Prime Minister acting on the advice of the Minister, or the appeal, when there is more than one division of the Board in office, may be referred by order of the Board from one division of the Board to another.

(4) The members of the Board shall hold office for a period of three years, and shall be eligible for re-appointment.

(5) A member of the Board may be removed from office by the Prime Minister acting on the advice of the Minister, on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Board.

(6) Except where a designated authority does not have its own means of appeal, the Board shall have jurisdiction to hear and determine all appeals made by an applicant aggrieved by any decision made by any designated authority under this Act or under any enactment in the second Schedule to this Act.

(7) Any such appeal has to be filed in the Registry of the Board within ten days from such decision.

(8) The decisions of the Board shall be final except with respect to points of law decided by the Board, from which an appeal

shall lie within ten days to the Court of Appeal (Inferior Jurisdiction); the judge shall have the right to decide *in camera* that such appeal is frivolous or vexatious following the closing of the stage of written submissions; such appeal shall also be regulated by rules of court made under article 29 of the Code of Organization and Civil Procedure.

8. (1) The Minister shall make regulations to bring the provisions of this Act into effect and in respect of any matter which may be prescribed under this Act; without prejudice to the generality of the foregoing, the Minister may, by such regulations:

Power to make regulations.

(a) prescribe the parameters for the determination of evidence of formal qualifications;

(b) provide for the recognition of any secondary, post-secondary or higher education and training courses, and long or short secondary courses, possibly complemented by professional training or experience;

(c) provide for the right to practise and use of professional title; and

(d) provide for the recognition of professional experience, adaptation periods, proof of good conduct and aptitude test:

Provided that in the case of professional activities not listed in the First Schedule hereof, the Minister may, with the concurrence of the Minister responsible for labour, make regulations for the recognition of qualifications on the basis of professional and, or vocational experience.

(2) The Minister may also by regulations add Schedules to this Act and amend or vary any such schedules currently in force including the possibility of adding or deleting professions or professional activities therefrom.

9. The Minister may, with the concurrence of the Minister responsible for finance, make orders with respect to the amount of fees payable for anything done or service rendered under this Act.

Fees.

A 1790

Consequential
amendments.

10. The enactments in the first column of the Second Schedule to this Act shall have effect subject to the amendments appearing relative thereto in the second column of the said Schedule.

FIRST SCHEDULE

(Article 2)

Regulated Activity	Profession/Professional	Designated Authority	Legislation
Teacher		Minister responsible for education	Education Act, Cap.327
Instructor			
Kindergarten Assistant			
Facilitator			
Accountant		Accountancy Board	Accountancy Profession Act, Cap.281
Auditor			
Stock broker		Malta Stock Exchange / Malta Financial Services Centre	Malta Stock Exchange Act, Cap.345
Financial intermediaries		Malta Financial Services Centre	Malta Stock Exchange Act, Cap.345
Investment Service Providers		Malta Financial Services Centre	Investment Services Act, Cap.370
Insurance sub-agents and registered insurance brokers		Malta Financial Services Centre	Insurance Brokers and other Intermediaries Act, Cap.404
Weights		Malta Standards Authority	Weights and Measures Ordinance, Cap.39
Engineer		Engineering Board	Engineering Profession Act, Cap.321
Mason		Masons Board	Code of Police Laws, Cap.10
Tourist Guide		Minister responsible for Tourism	Tourist Guide Service Act, Cap.190
Aircraft pilot		Department of Civil Aviation	Air Navigation Order, 1990 (LN176/90) under the Civil Aviation Act, Cap.232
Aircraft flight engineer			
Aircraft flight navigator			
Aircraft maintenance engineer			
Apron controller			
Air traffic control officer			
Port worker		Port Workers Board	Port Workers Ordinance, Cap.171
Foreman of port worker			

Regulated Activity	Profession/Professional	Designated Authority	Legislation
Scheduled bus service driver		Public Transport Directorate - Malta Transport Authority	Malta Transport Authority Act, Cap.332
Unscheduled service driver (coach)			
White window mini-van driver			
Minibus service driver			
Taxi service driver			
Motor hearse driver		Registrar General of Shipping and Seamen	Merchant Shipping Act, Cap.234 Merchant Shipping (Training and Certification) Regulations, 2001 (L.N. 197 of 2001)
Master			
Chief Mate			
Officer in charge of navigational watch			
Chief engineer officer			
Second engineer officer		Licensing and Testing Directorate Malta Transport Authority	Motor Vehicle Roadworthiness Test Regulations, (L.N. 126 of 1999) Motor Vehicles (Driving Licences) Regulations, (L.N. 191 of 2002)
Officer in charge of an engineering watch			
Licensed testers			
Licensed driving instructor			
Able bodied seaman		Registrar General of Shipping and Seamen	Merchant Shipping (A.B. and E.D.H. Certificates) Regulations, (L.N. 196 of 2001) Pilotage and Mooring Regulations, 1975 (L.N. 163/75) under the Malta Maritime Authority Act, Cap.352 Bunkering (Fuels) Tax Act, Cap.381 Mechanically Driven Boats (Passengers and Cargo) Regulations, (G.N. 704/55) under the Code of Police Laws, Cap.10
Efficient Hand Deck			
Pilot			
Mooringman			
Bunker operator			
Engine driver		Malta Maritime Authority	
Master inside / outside harbour			

Regulated Activity	Profession/Professional	Designated Authority	Legislation
General Purpose Hand		Malta Maritime Authority	Mechanically Driven Boats (Passengers and Cargo) Regulations, (G.N. 704/55) under the Code of Police Laws, Cap.10
Boatman			
Boatmaster Grade II			
Boatmaster Grade I			
Commercial Vessel Mate			
Commercial Vessel Master			
Marine Engine Driver 3		Malta Maritime Authority	Wireless Telegraphy Ordinance Cap 49 - Wireless Telegraphy (Certificates of Operators) Regulations, (L.N. 72 of 1999)
Marine Engine Driver 2			
Marine Engine Driver 1			
Engineer			
Radio Operator			
Auctioneer		Auctioneers Board	Auctioneers Act, Cap.342
Wireman		Enemalta Corporation	Electricity Supply Regulations, (L.N.223/40)
Local warden		Commissioner of Police	Private Guards and Local Wardens Act, Cap.389
Private guard			
Probation officer		Prime Minister	Probation of Offenders Act, Cap.152
Cinema projectionists		Department of Labour	Code of Police Laws, Cap.10
Engine Drivers (Steam) (First Grade)			Occupational Health and Safety Authority Act, Cap.424
Engine Drivers (Steam) (Second Grade)			
Engine Drivers (Internal Combustion) (First Grade)			
Engine Drivers (Internal Combustion) (Second Grade)			
Electric Motor Driver (First Grade)			
Electric Motor Driver (Second Grade)			

Regulated Activity	Profession/Professional	Designated Authority	Legislation
Periti		Minister responsible for Works on the recommendation of the <i>Bord tal-Warrant tal-Periti</i>	Periti Act, Cap.390
Advocates		President of Malta	Code of Organisation and Civil Procedure, Cap. 12
Legal Procurators		President of Malta	Code of Organisation and Civil Procedure, Cap. 12
Conservators-Restorers		Minister responsible for cultural heritage on the recommendation of the <i>Bord tal-Warrant tal-Restawrturi</i>	Cultural Heritage Act, Cap.445
Diving Instructors		Minister responsible for Health	
Veterinary surgeons		President of Malta on the recommendation of the Veterinary Surgeons' Council	Veterinary Services Act, Cap.437

SECOND SCHEDULE
(Article 7(6))

First Column	Second Column
Code of Organization and Civil Procedure, Cap.12.	<p>1.0 There shall be inserted the following Article before article 79 of the Code:</p> <p>"78A. For the purposes of this Title and of Title VIII of Book First of this Code, the expressions "Agreement", "Agreement State", "Citizen of an agreement State" and "competent authority" shall have the same meaning assigned to them in the Mutual Recognition of Qualifications Act, 2002."</p> <p>2.0 Article 81 of the Code shall be amended as follows:</p> <p>2.1 Paragraph (b) shall be substituted by the following new paragraph:</p> <p>"(b) he is a citizen of Malta or of an Agreement State or is otherwise permitted to work in Malta under any law;"</p> <p>2.2 Paragraph (c) shall be substituted by the following new paragraph:</p> <p>"(c) he has obtained the academical degree of Doctor of Law (LL.D.) in accordance with the provisions of the Statute of the University of Malta, or a comparable degree from such other competent authority in accordance with the principles of Mutual Recognition of Qualifications, after having studied law in Malta or in an Agreement State;"</p> <p>3.0 There shall be inserted the following new article after article 81 of the Code;</p> <p>"81A. The Minister responsible for justice may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Advocates."</p> <p>4.0 Article 84 of the Code shall be amended as follows:</p> <p>4.1 In subarticle (1) the words "the punishment of death, or to" shall be deleted.</p> <p>4.2 Subarticle (3) shall be re-numbered as subarticle (4) thereof.</p> <p>4.3 After sub-article (2), there shall be inserted the following new sub-article:</p>

"(3) The temporary or permanent withdrawal, by the competent authority in the agreement state in which the advocate acquired the right to use the professional title, of the authorisation to practise the profession shall automatically lead to the advocate being temporarily or permanently prohibited from practising in Malta."

5.0 Article 87 of the Code shall be amended as follows:

5.1 Paragraph (b) shall be substituted by the following:

"b) he is a citizen of Malta or of an Agreement State or is otherwise permitted to work in Malta under any law;"

5.2 Paragraph (c) shall be substituted by the following:

"(c) he has been approved by the examining board of the Faculty of Law, at a regular examination in the subjects of the course of studies to be followed by candidates for the profession of legal procurator, in accordance with the regulations of the University of Malta, or a comparable degree from such other competent authority in accordance with the principles of Mutual Recognition of Qualifications, after having studied law in Malta or in an Agreement State;"

6.0 There shall be inserted the following new article after article 87 of the Code:

"87A. The Minister responsible for justice may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Legal Procurators."

7.0 Tariff K of Schedule A annexed to the Code shall be amended as follows:

7.1 The Title of this Tariff shall be substituted by the following:

**"TARIFF K
Fees payable to Periti"**

7.2 For the expressions "architect" and "architect and civil engineer" wherever they appear in this Tariff, there shall be substituted the expression "periti".

Architecture
and Civil
Engineering
Professionals
(Periti) Act,
Cap. 390

1.0 The Titles of the Act shall be amended as follows:

1.1 The short Title of the Act shall be substituted by the following:

"PERITI ACT".

1.2 The long Title to the Act shall be substituted by the following:

"To regulate Periti and to provide for matters connected therewith or ancillary thereto."

2.0 Article 1 shall be substituted by the following:

"1. The title of this Act is Periti Act."

3.0 For the expression "Chamber" wherever it appears in the English text of the Act, with the exception of the expression "Chamber of Architects" in article 21(3), there shall be substituted the expression "Kamra".

4.0 In article 2 thereof –

4.1 There shall be inserted the following new definitions before the definition of "Board":

"Agreement", "Agreement State", and "Citizen of an agreement State" shall have the same meaning assigned to them in the Mutual Recognition of Qualifications Act, 2002;"

4.2 Immediately after the definition of "Board" there shall be inserted the following definition:

"competent authority" shall have the same meaning assigned to it in the Mutual Recognition of Qualifications Act, 2002;"

5.0 Paragraph (2)(a) of article 3 shall be substituted by the following paragraph:

"(2)(a) he is a citizen of Malta or of an Agreement State or is otherwise permitted to work in Malta under any law;"

6.0 Subarticle (3) of article 5 shall be substituted by the following subarticle:

"(3) Any person who is granted such a warrant shall, before entering upon the exercise of his profession, take before the Court of Appeal, in a public sitting, the oath of allegiance referred to in article 10 of the Code of Organisation and Civil Procedure and the oath of office in the following terms:

*I
do swear/solemnly affirm that I will faithfully and with all honesty
and exactness perform the duties of a Perit to the best of my
knowledge and ability. So help me God."*

	<p>7.0 Subarticle (1) of article 7 shall be amended as follows:</p> <p>7.1 In paragraph (e), for the expression "article 4 of this Act." there shall be substituted the expression "article 4 of this Act; and".</p> <p>7.2 There shall be added a new paragraph (f):</p> <p>"(f) issue a certificate stating that the person wishing to practise the profession in an Agreement State is lawfully pursuing the activities in the field of architecture and civil engineering in Malta where he is established."</p> <p>8.0 Subarticle (1) of article 8 shall be substituted by the following subarticle:</p> <p>"8. (1) All warrant holders shall have the right to belong to the Kamra and to participate in its activities."</p> <p>9.0 Article 20 shall be amended as follows:</p> <p>9.1 Paragraph (c) shall be renumbered as paragraph (d) thereof.</p> <p>9.2 A new paragraph (c) shall be inserted immediately after paragraph (b) thereof:</p> <p>"(c) the bringing into effect of the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Perit."</p>
Accountancy Profession Act, Cap. 281	<p>1.0 There shall be inserted the following new article after article 8 of the Act:</p> <p>"8A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Accountant and Auditor."</p>
Engineering Profession Act, Cap. 321	<p>1.0 There shall be inserted the following new article after article 5 of the Act:</p> <p>"5A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Engineer."</p>
Education Act, Cap. 327	<p>1.0 There shall be inserted the following new article after article 12 of the Act:</p> <p>"12A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Teacher."</p>

Veterinary Services Act, Cap. 437	<p>1.0 Article 43 shall be amended as follows:</p> <p>1.1 Paragraph (a) of subarticle (3) thereof shall be deleted.</p> <p>1.2 Paragraph (b) of subarticle (3) thereof shall be substituted by the following:</p> <p>"(b) has graduated in veterinary medicine and surgery, having a degree or formal qualification recognised by the Council, as being comparable to the degree or formal qualification, in the subject, in Malta, if any, and in trading partners;"</p> <p>1.3 Paragraph (c) of subarticle (3) thereof shall be deleted.</p> <p>1.4 Paragraph (f) of sub-article (3) thereof shall be deleted.</p> <p>1.5 Subarticle (4) thereof shall be deleted.</p> <p>1.6 Paragraph (b) of subarticle (5) thereof shall be substituted by the following:</p> <p>"(b) Every veterinary surgeon shall be entitled to have entered against his name in the Veterinary Surgeons' Register, any degree or diploma which he may hold, provided that such degree, diploma or comparable formal qualification relates to the profession of veterinary surgeon and is recognised by the Council."</p> <p>2.0 There shall be inserted the following new article after article 45 of the Act:</p> <p>"45A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Veterinary Surgeons."</p>
Cultural Heritage Act, Cap. 445	<p>1.0 There shall be inserted the following new article after article 33 of the Act:</p> <p>"33A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the Mutual Recognition of Qualifications of Conservator-Restorer."</p>

A 1800

Passed by the House of Representatives at Sitting No. 787 of the 18th
September, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives