

L.N. 270 of 2016

**VARIOUS LAWS (TRANSPOSITION OF DIRECTIVE
2013/55/EU) (AMENDMENT) ACT, 2016
(ACT NO. XXXIV of 2016)**

**Subsidiary Legislation (Transposition of Directive 2013/55/EU)
(Amendment) Regulations, 2016**

IN exercise of the powers conferred by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, the Minister for Education and Employment has made the following regulations:-

1. The title of these regulations is the Subsidiary Legislation (Transposition of Directive 2013/55/EU) (Amendment) Regulations, 2016. Citation.

Part I

**Amendments to the Accountancy Profession (Provision of
Accountancy Services on a Temporary and Occasional Basis)
Regulations**

2. (1) This Part amends the Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations, and it shall be read and construed as one with the Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations hereinafter in this Part referred to as "the principal regulations". Amendments to the Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations. S.L. 281.04

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, on the Minister for Education and Employment, in consultation with the Minister for Finance, and on the recommendation of the Accountancy Board, in pursuance of the powers conferred by articles 8 and 8A of the Accountancy Profession Act.

3. Regulation 4 of the principal regulations shall be amended as follows: Amends regulation 4 of the principal regulations.

(a) the current regulation shall be re-numbered as sub-regulation (1) thereof;

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(b) in the proviso to paragraph (a) of sub-regulation (1), as re-numbered thereof, for the words "two years" there shall be substituted the words "one year"; and

(c) immediately after sub-regulation (1), as re-numbered, thereof, there shall be added the following new sub-regulation:

"(2) The Board shall ensure that any controls on the language competency of a temporary service provider are limited to the knowledge of one official language of Malta, and only carried out after recognition of the professional qualifications of the temporary service provider. Controls may be imposed by the Board in cases where there is a serious and concrete doubt about the sufficiency of the temporary service provider's language knowledge in respect of the accountancy services the temporary service provider intends to pursue. Any language controls shall be proportionate to the activity to be pursued, and shall be subject to appeal in accordance with article 15B of the Act."

Amends
regulation 6 of
the principal
regulations.

4. In paragraph (c) of sub-regulation (2) of regulation 6 of the principal regulations, for the words "two years" there shall be substituted the words "one year".

Adds new
regulation to the
principal
regulations.

5. Immediately after regulation 6 of the principal regulations, there shall be added the following regulation:

"Access to
provide
accountancy
services.

6A. Submission of the required declaration by a temporary service provider in accordance with regulation 6 shall entitle that temporary service provider to have access to provide accountancy services in the entire territory of Malta."

Part II

Amendments to the Tourist Guides Regulations

Amendments to
the Tourist
Guides
Regulations.
S.L. 409.12

6. (1) This Part amends the Tourist Guides Regulations and it shall be read and construed as one with the Tourist Guides Regulations, hereinafter in this Part referred to as "the principal regulations".

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred by article 38 of the Various Laws

(Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, on the Minister for Education and Employment, in consultation with the Minister for Tourism, on the recommendation of the Malta Tourism Authority, in pursuance of the powers conferred by article 47 of the Malta Travel and Tourism Act.

7. In the proviso to sub-regulation (3) of regulation 3 of the principal regulations, for the words "two years" there shall be substituted the words "one year".

Amends
regulation 3 of
the principal
regulations.

8. Regulation 7 of the principal regulations shall be amended as follows:

Amends
regulation 7 of
the principal
regulations.

(a) in the proviso to paragraph (a) of sub-regulation (1) thereof, for the words "twenty-four months" there shall be substituted the words "one year";

(b) in paragraph (c) of sub-regulation (4) thereof, for the words "twenty-four months" there shall be substituted the words "one year"; and

(c) immediately after sub-regulation (8) thereof, there shall be added the following new sub-regulations:

"(9) Submission of the required declaration by a temporary service provider in accordance with sub-regulation (3) shall entitle that temporary service provider to have access to provide tourist guiding services in the entire territory of Malta.

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(10) The Authority shall ensure that any controls on the language competency of a temporary service provider are limited to the knowledge of one official language of Malta, and only carried out after recognition of the professional qualifications of the temporary service provider. Controls may be imposed by the Authority in cases where there is a serious and concrete doubt about the sufficiency of the temporary service provider's language knowledge in respect of the tourist guiding services the temporary service provider intends to pursue. Any language controls shall be proportionate to the activity to be pursued, and shall be subject to appeal in accordance with the provisions of the Third Schedule to the Act, on payment of the fee set out in the Fees (Tourism) Regulations."

S.L. 409.05

Part III

Amendments to the Mutual Recognition of Qualifications of Veterinary Surgeons Regulations

Amendments to the Mutual Recognition of Qualifications of Veterinary Surgeons Regulations.
S.L. 437.43

9. (1) This Part amends the Mutual Recognition of Qualifications of Veterinary Surgeons Regulations and it shall be read and construed as one with the Mutual Recognition of Qualifications of Veterinary Surgeons Regulations, hereinafter in this Part referred to as "the principal regulations".

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, on the Minister for Education and Employment, in consultation with the Minister for Sustainable Development, the Environment and Climate Change, in pursuance of the powers conferred by article 45A of the Veterinary Services Act.

Amends regulation 2 of the principal regulations.

10. Regulation 2 of the principal regulations shall be amended as follows:

(a) paragraphs (vii) to (xii) thereof shall be re-numbered as paragraphs (viii) to (xiii) respectively; and

(b) immediately following paragraph (vi) thereof there shall be added the following new definition:

"(vii) "European Credit Transfer and Accumulation System" or "ECTS credits" means the credit system for higher education used in the European Higher Education Area;"

11. Regulation 4 of the principal regulations shall be amended as follows:

Amends
regulation 4 of
the principal
regulations.

(a) for sub-regulation (1) thereof there shall be substituted the following:

"(1) The Council shall require persons wishing to take up and pursue the profession of veterinary surgeon to hold a diploma, certificate or other evidence of formal qualifications in veterinary medicine as listed in the Schedule I, which guarantees that during his complete training period the applicant has acquired:

(a) adequate knowledge of the sciences on which the activities of a veterinary surgeon are based and of European Union law relating to those activities;

(b) adequate knowledge of the structure, functions, behaviour and physiological needs of animals, as well as the skills and competences needed for their husbandry, feeding, welfare, reproduction and hygiene in general;

(c) the clinical, epidemiological and analytical skills and competences required for the prevention, diagnosis and treatment of the diseases of animals, including anaesthesia, aseptic surgery and painless death, whether considered individually or in groups, including specific knowledge of the diseases which may be transmitted to humans;

(d) adequate knowledge, skills and competences for preventive medicine, including competences relating to inquiries and certification;

(e) adequate knowledge of the hygiene and technology involved in the production, manufacture and putting into circulation of animal feedstuffs or foodstuffs of animal origin intended for human consumption, including the skills and competences required to understand and explain

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good practice in this regard;

(f) the knowledge, skills and competences required for the responsible and sensible use of veterinary medicinal products, in order to treat the animals and to ensure the safety of the food chain and the protection of the environment."; and

(b) in sub-regulation (2) thereof, for words "full-time instruction" there shall be substituted the words "full-time instruction, which may in addition be expressed with the equivalent ECTS credits,".

Part IV

Amendments to the Recognition of Professional Qualifications Regulations

Amendments to the Recognition of Professional Qualifications Regulations.
S.L. 451.03

12. (1) This Part amends the Recognition of Professional Qualifications Regulations and it shall be read and construed as one with the Recognition of Professional Qualifications Regulations, hereinafter in this Part referred to as "the principal regulations".

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred on the Minister for Education and Employment by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, and article 8 of the Mutual Recognition of Qualifications Act.

Amends regulation 2 of the principal regulations.

13. Regulation 2 of the principal regulations shall be amended as follows:

(a) the figure "(1)" shall be deleted;

(b) for the definition "aptitude test" there shall be substituted the following:

" "aptitude test" means a test of the professional knowledge, skills and competences of the applicant, carried out or recognised by the designated authority with the aim of assessing the ability of the applicant to pursue a regulated profession in Malta. In order to permit this test to be carried out, designated authorities shall draw up a list of subjects which, on the basis of a comparison of the education and training required in Malta and that received by the applicant, are not covered by the diploma or other evidence of formal qualifications possessed by the

applicant. The aptitude test must take account of the fact that the applicant is a qualified professional in the home Member State or the Member State from which the applicant comes. It shall cover subjects to be selected from those on the list, knowledge of which is essential in order to be able to pursue the profession in question in Malta. The test may also cover knowledge of the professional rules applicable to the activities in question in Malta. The detailed application of the aptitude test and the status, in Malta, of the applicant who wishes to prepare himself for the aptitude test in Malta shall be determined by the designated authorities concerned;"

(c) the definition "common platforms" shall be deleted;

(d) immediately after the definition "aptitude test" there shall be added the following new definition:

" "European Professional Card" means an electronic certificate proving either that the professional has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis or the recognition of professional qualifications for establishment in a host Member State;"

(e) immediately after the definition "European Professional Card" there shall be added the following new definition:

" "European Credit Transfer and Accumulation System" or "ECTS credits" means the credit system for higher education used in the European Higher Education Area;"

(f) immediately after the definition "evidence of formal qualifications" there shall be added the following new definition:

" "IMI" means the Internal Market Information System;"

(g) immediately after the definition "IMI" there shall be added the following new definition:

" "lifelong learning" means all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting

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in an improvement in knowledge, skills and competences, which may include professional ethics;"

(h) immediately after the definition "migrant" there shall be added the following new definition:

" "overriding reasons of general interest" means reasons recognised as such in the case-law of the Court of Justice of the European Union;"

(i) for the definition "professional experience" there shall be substituted the following:

" "professional experience" means the actual and lawful full-time or equivalent part-time pursuit of the profession concerned in a Member State;"

(j) immediately after the definition "professional qualifications" there shall be added the following new definition:

"professional traineeship" means a period of professional practice carried out under supervision provided it constitutes a condition for access to a regulated profession, and which can take place either during or after completion of an education leading to a diploma;" and

(k) for the definition "substantially different matters" there shall be substituted the following:

" "substantially different matters" means matters in respect of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the migrant shows significant differences in terms of content from the training required by the host Member State."

Amends
regulation 3 of
the principal
regulations.

14. Regulation 3 of the principal regulations shall be amended as follows:

(a) the present regulation shall be renumbered as sub-regulation (1) thereof; and

(b) immediately after sub-regulation (1), as re-numbered, thereof, there shall be added the following new sub-regulations:

"(2) These regulations shall also apply to all

nationals of a Member State who have pursued a professional traineeship outside the home Member State.

(3) These regulations shall not apply to notaries who are appointed by official act of government."

15. Regulation 4 of the principal regulations shall be amended as follows:

Amends regulation 4 of the principal regulations.

(a) for sub-regulation (3) thereof there shall be substituted the following:

"(3) The recognition of professional qualifications shall allow migrants to gain access in Malta to the same profession as that for which they are qualified in their home Member State and to pursue it in Malta under the same conditions as Maltese nationals:

Provided that partial access to a profession in Malta shall be granted under the conditions laid down in regulation 6F."; and

(b) sub-regulation (5) thereof shall be deleted.

16. Immediately after regulation 4 of the principal regulations there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Knowledge of languages.

4A. (1) Professionals benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in Malta.

(2) Designated authorities shall ensure that any controls carried out to ensure compliance with the obligation under sub-regulation (1) shall be limited to the knowledge of one official language of Malta.

(3) Controls carried out in accordance with sub-regulation (2) may be imposed if the profession to be practised has patient safety implications. Controls may be imposed in respect of other professions in cases where there is a serious and concrete doubt about the sufficiency of the professional's language knowledge in respect of the professional activities which that professional intends to pursue.

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(4) Controls may be carried out only after the issuance of a European Professional Card in accordance with regulation 6D or after the recognition of a professional qualification, as the case may be.

(5) Any language controls shall be proportionate to the activity to be pursued, and shall be subject to appeal in accordance with article 7 of the Act."

Amends
regulation 5 of
the principal
regulations.

17. Regulation 5 of the principal regulations shall be amended as follows:

(a) paragraph (a) of sub-regulation (3) thereof shall be substituted by the following:

"(a) The designated authorities shall exchange information with competent authorities of other Member States regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under these regulations. In so doing, they shall respect personal data protection rules provided by law."; and

(b) immediately after sub-regulation (3) thereof there shall be added the following new sub-regulation:

"(4) For the purposes of sub-regulations (2) and (3), the designated authorities shall use IMI."

Adds new
regulation to the
principal
regulations.

18. Immediately after regulation 5 of the principal regulations, there shall be added the following new regulation:

"Information to
be given to
competent
authorities of all
other Member
States.

5A. (1) The National Commission for Further and Higher Education shall inform the competent authorities of all other Member States about a professional whose pursuit in the territory of Malta of the following professional activities in their entirety or parts thereof has been restricted or prohibited, even temporarily, by national authorities or courts:

(a) doctor of medicine and of general practice possessing evidence of a formal qualification referred to in points 5.1.1 and 5.1.4 of Annex V of Directive 2005/36/EC;

(b) specialist doctor of medicine possessing a title referred to in point 5.1.3 of Annex V of Directive 2005/36/EC;

(c) nurse responsible for general care possessing evidence of a formal qualification referred to in point 5.2.2 of Annex V of Directive 2005/36/EC;

(d) dental practitioner possessing evidence of a formal qualification referred to in point 5.3.2 of Annex V of Directive 2005/36/EC;

(e) specialist dentists possessing evidence of a formal qualification referred to in point 5.3.3 of Annex V of Directive 2005/36/EC;

(f) veterinary surgeon possessing evidence of a formal qualification referred to in point 5.4.2 of Annex V of Directive 2005/36/EC;

(g) midwife possessing evidence of a formal qualification referred to in point 5.5.2 of Annex V of Directive 2005/36/EC;

(h) pharmacist possessing evidence of a formal qualification listed in point 5.6.2 of Annex V of Directive 2005/36/EC;

(i) holders of certificates mentioned in point 2 of Annex VII of Directive 2005/36/EC attesting that the holder completed a training which satisfies the minimum requirements listed in Articles 24, 25, 31, 34, 35, 38, 40, or 44 respectively of Directive 2005/36/EC, but which started earlier than the reference dates of the qualifications listed in points 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 of Annex V of Directive 2005/36/EC;

(j) holders of certificates of acquired rights as referred to in Articles 23, 27, 29, 33, 33a, 37, 43 and 43a of Directive 2005/36/EC;

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(k) other professionals exercising activities that have patient safety implications, where the professional is pursuing a profession regulated in Malta;

(l) professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a profession regulated in Malta.

(2) The National Commission for Further and Higher Education shall send the information referred to in sub-regulation (1) by way of alert via IMI at the latest within three days from the date of adoption of the decision restricting or prohibiting pursuit of the professional activity in its entirety or in part by the professional concerned. That information shall be limited to the following:

(a) the identity of the professional;

(b) the profession concerned;

(c) information about the authority or court adopting the decision on restriction or prohibition;

(d) the scope of the restriction or the prohibition; and

(e) the period during which the restriction or the prohibition applies.

(3) The National Commission for Further and Higher Education shall, at the latest within three days from the date of adoption of the court decision, inform the competent authorities of all other Member States, by way of alert via IMI, about the identity of professionals who have applied for the recognition of a qualification and who have subsequently been found by courts to have used falsified evidence of professional qualifications in this context.

(4) The processing of personal data for the purpose of the exchange of information referred to in sub-regulations (1) and (3) shall be carried out in accordance with Directives 95/46/EC and 2002/58/EC.

(5) The National Commission for Further and Higher Education shall inform the competent authorities of all Member States without delay when a prohibition or a restriction referred to in sub-regulation (1) has expired. For that purpose, the National Commission for Further and Higher Education, when providing the information in accordance with sub-regulation (1), shall also be required to provide the date of expiry as well as any subsequent change to that date.

(6) Designated authorities shall forthwith provide the National Commission for Further and Higher Education with all information required in terms of this regulation for the purposes of permitting the National Commission for Further and Higher Education to meet its obligations in terms of this regulation.

(7) The National Commission for Further and Higher Education shall ensure that professionals, in respect of whom alerts are sent to other Member States, are informed in writing of decisions on alerts at the same time as the alert itself. Professionals may appeal, in terms of article 7 of the Act, against the decision to issue an alert or apply for rectification of such decisions, and in such cases the decision on the alert shall be qualified to indicate that it is subject to proceedings by the professional.

(8) Data regarding alerts may be processed within IMI for as long as they are valid. Alerts shall be deleted within three days from the date of adoption of the revoking decision or from the expiry of the prohibition or the restriction referred to in sub-regulation (1).

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(9) Notwithstanding anything provided in this regulation, the Minister may by notice in the Gazette appoint any entity other than the National Commission for Further and Higher Education to perform the duties and obligations set forth in this regulation, either in addition to or in substitution of the National Commission for Further and Higher Education."

Adds new regulation to the principal regulations.

19. Immediately after regulation 5A of the principal regulations, there shall be added the following new regulation:

"Requirements, procedures and formalities to be easily completed, remotely and by electronic means.

5B. (1) Designated authorities shall ensure that all requirements, procedures and formalities relating to matters covered by these regulations may be easily completed, remotely and by electronic means. Designated authorities shall be permitted to request certified copies at a later stage in the event of justified doubts and where strictly necessary:

Provided that this shall not apply to the carrying out of an adaptation period or an aptitude test.

(2) Where it is justified for a designated authority to ask for advanced electronic signatures, as defined in point 2 of Article 2 of Directive 1999/93/EC, for the completion of procedures referred to in sub-regulation (1), the designated authority shall accept electronic signatures in compliance with Commission Decision 2009/767/EC of 16 October 2009 and provide for technical means to process documents with advanced electronic signature in formats defined by Commission Decision 2011/130/EU of 25 February 2011.

Cap. 500. (3) All procedures shall be carried out in accordance with article 4(d) of the Services (Internal Market) Act relating to the point of single contact. The procedural time limits set out in regulations 9(4) and 25 of these regulations shall commence at the point when an application or any missing document has been submitted by a citizen to the point of single contact or directly to the relevant designated authority. Any request for certified copies referred to in sub-regulation (1) shall not be considered as a request for missing documents."

20. Regulation 6 of the principal regulations shall be substituted by the following:

Substitutes regulation 6 of the principal regulations.

"National Assistance Centre.

6. (1) There shall be a National Assistance Centre whose remit shall be to provide citizens, as well as assistance centres of the other Member States, with assistance concerning the recognition of professional qualifications provided for in these regulations and Directive 2005/36/EC, including information on the national legislation governing the professions and the pursuit of those professions, social legislation, and, where appropriate, the rules of ethics.

(2) The National Assistance Centre shall assist citizens in exercising the rights conferred on them by these regulations, in cooperation, where appropriate, with the assistance centres of other Member States and the designated authorities and the point of single contact in Malta.

(3) Designated authorities shall fully cooperate with the National Assistance Centre and where appropriate national assistance centres of other Member States, and provide all relevant information about individual cases to such assistance centres upon their request and subject to data protection rules in accordance with Directives 95/46/EC and 2002/58/EC.

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(4) At the European Commission's request, the National Assistance Centre shall inform the European Commission of the result of enquiries which it is dealing with within two months after receiving such a request."

Adds new regulation to the principal regulations.

21. Immediately after regulation 6 of the principal regulations, there shall be added the following new regulation:

"Issuance of European Professional Card.

6A. (1) Subject to the European Commission having adopted implementing acts as specified in Directive 2005/36/EC, designated authorities shall issue holders of a professional qualification with a European Professional Card upon their request.

(2) When a European Professional Card has been introduced for a particular profession by means of relevant implementing acts referred to in sub-regulation (1), the holder of a professional qualification concerned may choose to apply for such a European Professional Card or to make use of the procedures provided for in Titles II and III of Directive 2005/36/EC.

(3) A holder of a European Professional Card shall benefit from all the rights conferred by regulations 6B to 6E.

(4) Where the holder of a professional qualification intends to provide services under Title II of Directive 2005/36/EC other than those covered by Article 7(4) of the same Directive, the relevant designated authority shall issue the European Professional Card in accordance with regulations 6B and 6C.

(5) Designated authorities shall also, in cases when Malta is the host Member State, recognise a European Professional Card as a declaration under regulation 9.

(6) Where the holder of a professional qualification intends to establish himself in another Member State under Chapters I to IIIa of Title III of Directive 2005/36/EC or to provide services under Article 7(4) of Directive 2005/36/EC, the relevant designated authority shall complete all preparatory steps with regard to the individual file of the applicant created within the Internal Market Information System (IMI) (IMI file) as provided for in regulations 6B and 6D. The relevant designated authority shall issue the European Professional Card in accordance with regulations 6B and 6D. For the purpose of establishment in Malta, a European Professional Card shall not provide an automatic right to practise a particular profession if there are registration requirements or other control procedures already in place in the Malta before a European Professional Card is introduced for that profession.

(7) The relevant designated authority shall be responsible for dealing with IMI files and issuing European Professional Cards. The relevant designated authority shall ensure an impartial, objective and timely processing of applications for European Professional Cards. Designated authorities and the National Assistance Centre shall inform citizens, including prospective applicants, about the functioning and the added value of a European Professional Card for the professions for which it is available.

(8) Designated authorities may charge fees to issue a European Professional Card, provided such fees shall be reasonable, proportionate and commensurate with the costs incurred by the designated authority and shall not act as a disincentive to apply for a European Professional Card."

22. Immediately after regulation 6A of the principal

Adds new regulation to the principal regulations.

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regulations, there shall be added the following new regulation:

"On-line
application.

6B. (1) In cases where Malta is the home Member State, the relevant designated authority shall enable a holder of a professional qualification to apply for a European Professional Card through an on-line tool that automatically creates an IMI file for the particular applicant. Written applications shall not be permitted.

(2) Applications shall be supported by the documents specified in implementing acts to be adopted by the European Commission pursuant to Directive 2005/36/EC.

(3) Within one week of receipt of the application, the relevant designated authority shall acknowledge receipt of the application and inform the applicant of any missing document. Where applicable, the designated authority shall issue any supporting certificate required under these regulations. The designated authority shall verify whether the applicant is legally established in Malta and whether all the necessary documents which have been issued in Malta are valid and authentic. In the event of duly justified doubts, the designated authority shall consult the relevant body and may request from the applicant certified copies of documents. In case of subsequent applications by the same applicant, the designated authority may not request the re-submission of documents which are already contained in the IMI file and which are still valid.

(4) In cases where Malta is the host Member State, the designated authority may not request the re-submission of documents which are already contained in the IMI file and which are still valid."

Adds new
regulation to the
principal
regulations.

23. Immediately after regulation 6B of the principal

regulations, there shall be added the following new regulation:

"Verification of application.

6C. (1) In cases where Malta is the home Member State, the relevant designated authority shall verify the application and the supporting documents in the IMI file and issue the European Professional Card for the temporary and occasional provision of services other than those covered by Article 7(4) of Directive 2005/36/EC within three weeks. That time period shall start upon receipt of the missing documents referred to in sub-regulation (3) of regulation 6B or, if no further documents were requested, upon the expiry of the one-week period referred to in that sub-regulation. The relevant designated authority shall then transmit the European Professional Card immediately to the competent authority of each host Member State concerned and shall inform the applicant accordingly.

(2) In cases where Malta is the host Member State, the relevant designated authority may not require any further declaration under regulation 9 for the following eighteen months.

(3) The decision of the relevant designated authority or the absence of a decision within the period of three weeks referred to in sub-regulation (1) shall be subject to appeal in terms of article 7 of the Act.

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(4) If a holder of a European Professional Card wishes to provide services in Member States other than those initially mentioned in the application referred to in sub-regulation (1), that holder may apply for such extension. If the holder wishes to continue providing services beyond the period of eighteen months referred to in sub-regulation (1), that holder shall inform the relevant designated authority accordingly. In either case, that holder shall also provide any information on material changes in the situation substantiated in the IMI file that may be required by the relevant designated authority in accordance with the implementing acts to be adopted by the European Commission. The designated authority shall transmit the updated European Professional Card to the host Member States concerned.

(5) A European Professional Card issued by a competent authority of another Member State shall be valid in the entire territory of Malta for as long as its holder maintains the right to practice on the basis of the documents and information contained in the IMI file."

Adds new regulation to the principal regulations.

24. Immediately after regulation 6C of the principal regulations, there shall be added the following new regulation:

"Verification of authenticity and validity of supporting documents.

6D. (1) In cases where Malta is the home Member State, the relevant designated authority shall, within one month, verify the authenticity and validity of the supporting documents in the IMI file for the purpose of issuing a European Professional Card for establishment or for the temporary and occasional provision of services under Article 7(4) of Directive 2005/36/EC. That time period shall start upon receipt of the missing documents referred to in sub-regulation (3) of regulation 6B or, if no further documents were requested, upon the expiry of the one-week period referred to in that sub-regulation. It shall then transmit the application immediately to the competent authority of the host Member State. The relevant designated authority shall inform the applicant of the status of the application at the same time as it transmits the application to the host Member State.

(2) In cases where Malta is the host Member State, in the instances referred to in regulations 18, 22(1), 29 and 30, the relevant designated authority shall decide whether to issue a European Professional Card under sub-regulation (1) within one month of receipt of the application transmitted by the home Member State. In the event of duly justified doubts, the relevant designated authority may request additional information from, or the inclusion of a certified copy of a document by, the home Member State, which the latter shall provide no later than two weeks after the submission of the request. Subject to the provisions of sub-regulation (5), the period of one month shall apply, notwithstanding any such request:

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Provided that, in cases where Malta is the home Member State, upon receipt of a request for additional information or the inclusion of a certified copy of a document from the host Member State, the relevant designated authority shall provide the same within no later than two weeks after the submission of the request.

(3) In cases where Malta is the host Member State, in the instances referred to in regulations 9(4) and 16, the relevant designated authority shall decide whether to issue a European Professional Card or to subject the holder of a professional qualification to compensation measures within two months of receipt of the application transmitted by the home Member State. In the event of duly justified doubts, the relevant designated authority may request additional information from, or the inclusion of a certified copy of a document by, the home Member State which the latter shall provide no later than two weeks after the submission of the request. Subject to the provisions of sub-regulation (5), the period of two months shall apply, notwithstanding any such request:

Provided that, in cases where Malta is the home Member State, upon receipt of a request for additional information or the inclusion of a document from the host Member State, the relevant designated authority shall provide the same within no later than two weeks after the submission of the request.

(4) In cases where Malta is the host Member State, in the event that the relevant designated authority does not receive the necessary information which it may require in accordance with these regulations for taking a decision on the issuance of the European Professional Card from either the home Member State or the applicant, it may refuse to issue the Card. Such refusal shall be duly justified.

(5) In cases where Malta is the host Member State, where the relevant designated authority fails to take a decision within the time limits set out in sub-regulations (2) and (3) or fails to organise an aptitude test in accordance with regulation 9(4), the European Professional Card shall be deemed to be issued and shall be sent automatically, through IMI, to the holder of a professional qualification.

The relevant designated authority shall have the possibility to extend by two weeks the deadlines set out in sub-regulations (2) and (3) for the automatic issuance of the European Professional Card. It shall explain the reason for the extension and inform the applicant accordingly. Such an extension may be repeated once and only where it is strictly necessary, in particular for reasons relating to public health or the safety of the service recipients.

(6) In cases where Malta is the host Member State, the actions taken by the home Member State in accordance with sub-regulation (1) shall replace any application for recognition of professional qualifications under the national law of Malta.

(7) The decisions of a designated authority under sub-regulations (1) to (5) or the absence of decision shall be subject to appeal in accordance with article 7 of the Act."

25. Immediately after regulation 6D of the principal regulations, there shall be added the following new regulation:

Adds new regulation to the principal regulations.

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"Updating of
IMI file.

6E. (1) Without prejudice to the presumption of innocence, the relevant designated authority shall update, in a timely manner, the corresponding IMI file with information regarding disciplinary actions or criminal sanctions which relate to a prohibition or restriction and which have consequences for the pursuit of activities by the holder of a European Professional Card under these regulations or Directive 2005/36/EC. In so doing they shall respect personal data protection rules provided for in Directive 95/46/EC and Directive 2002/58/EC. Such updates shall include the deletion of information which is no longer required. The holder of the European Professional Card as well as the relevant designated authorities that have access to the corresponding IMI file shall be informed immediately of any updates. This obligation shall be without prejudice to the alert obligations set forth in regulation 5A.

(2) The content of the information updates referred to in sub-regulation (1) shall be limited to the following:

- (a) the identity of the professional;
- (b) the profession concerned;
- (c) information about the national authority or court which has adopted the decision on restriction or prohibition;
- (d) the scope of the restriction or the prohibition; and
- (e) the period for which the restriction or the prohibition applies.

(3) Access to the information in the IMI file shall be limited to the relevant designated authority, in accordance with Directive 95/46/EC. The relevant designated authority shall inform the holder of the European Professional Card of the content of the IMI file upon that holder's request.

(4) The information included in the European Professional Card shall be limited to the information that is necessary to ascertain its holder's right to exercise the profession for which it has been issued, namely the holder's name, surname, date and place of birth, profession, formal qualifications, and the applicable regime, designated or competent authorities involved, Card number, security features and reference to a valid proof of identity. Information relating to professional experience acquired, or compensation measures passed, by the holder of the European Professional Card shall be included in the IMI file.

(5) The personal data included in the IMI file may be processed for as long as it is needed for the purpose of the recognition procedure as such and as evidence of the recognition or of the transmission of the declaration required under Article 7 of Directive 2005/36/EC or regulation 9. The holder of a European Professional Card shall have the right at any time, and at no cost to that holder, to request the rectification of inaccurate or incomplete data, or the deletion or blocking of the IMI file concerned. The holder shall be informed of this right at the time the European Professional Card is issued, and reminded of it every two years thereafter. The reminder shall be sent automatically via IMI where the initial application for the European Professional Card was submitted online.

In the event of a request for deletion of an IMI file linked to a European Professional Card issued for the purpose of establishment or temporary and occasional provision of services under Article 7(4) of Directive 2005/36/EC or regulation 9(4), the designated authority shall issue the holder of professional qualifications with evidence attesting to the recognition of his professional qualifications.

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(6) In relation to the processing of personal data in the European Professional Card and all IMI files, the relevant designated authority shall be regarded as a controller within the meaning of point (d) of Article 2 of Directive 95/46/EC.

(7) Without prejudice to sub-regulation (3), designated authorities shall permit employers, customers, patients, public authorities and other interested parties to verify the authenticity and validity of a European Professional Card presented to them by the Card holder."

Adds new regulation to the principal regulations.

26. Immediately after regulation 6E of the principal regulations, there shall be added the following new regulation:

"Partial access to a professional activity.

6F. (1) Designated authorities shall grant partial access, on a case-by-case basis, to a professional activity only when all the following conditions are fulfilled:

(a) the professional is fully qualified to exercise in the home Member State the professional activity for which partial access is sought in Malta;

(b) differences between the professional activity legally exercised in the home Member State and the regulated profession in Malta as such are so large that the application of compensation measures would amount to requiring the applicant to complete the full programme of education and training required in Malta to have access to the full regulated profession in Malta;

(c) the professional activity can objectively be separated from other activities falling under the regulated profession in Malta; provided that for this purpose the designated authority shall take into account whether the professional activity can be pursued autonomously in Malta.

(2) Partial access may be rejected if such rejection is justified by overriding reasons of general interest, suitable for securing the attainment of the objective pursued, and does not go beyond what is necessary to attain that objective.

(3) Applications for the purpose of establishment in Malta shall be examined in accordance with Sections I and III of Part III of these regulations.

(4) Applications for the purpose of providing temporary and occasional services in Malta concerning professional activities that have public health or safety implications shall be examined in accordance with Part II of these regulations.

(5) Notwithstanding the provisions of regulations 9(4) and 27, the professional activity shall be exercised under the professional title of the home Member State once partial access has been granted. The designated authority may require use of that professional title in the languages of Malta. Professionals benefiting from partial access shall clearly indicate to the service recipients the scope of their professional activities.

(6) This regulation shall not apply to professionals benefiting from automatic recognition of their professional qualifications under Chapters II, III and IIIa of Title III of Directive 2005/36/EC."

27. Paragraph (b) of sub-regulation (1) of regulation 7 of the principal regulations shall be substituted by the following:

Amends
regulation 7 of
the principal
regulations.

"(b) where the service provider moves, if he has pursued that profession in one or several Member States for at least one year during the last ten years preceding the provision of services when the profession is not regulated in the Member State of establishment. The condition of one year's pursuit shall not apply if the profession or the education and training leading to the profession is regulated."

28. Regulation 9 of the principal regulations shall be amended as follows:

Amends
regulation 9 of
the principal
regulations.

(a) in paragraph (d) of sub-regulation (2) thereof, for

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the words "two years" there shall be substituted the words "one year";

(b) for paragraph (e) of sub-regulation (2) thereof there shall be substituted the following:

"(e) for professions in the security sector, in the health sector and professions related to the education of minors, including in childcare and early childhood education, where required for Maltese nationals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions;"

(c) immediately after paragraph (e) of sub-regulation (2) thereof there shall be added the following new paragraphs:

"(f) for professions that have patient safety implications, a declaration about the applicant's knowledge of the language necessary for practising the profession in Malta;

(g) for professions covering the activities referred to in regulation 18 and which were notified to the European Commission in accordance with Directive 2005/36/EC, a certificate concerning the nature and duration of the activity issued by the competent authority or body of the Member State where the service provider is established.";

(d) for paragraph (b) of sub-regulation (4) thereof there shall be substituted the following:

"(b) No later than one month after receipt of the declaration and accompanying documents, the designated authority shall inform the service provider of its decision:

(i) not to check his professional qualifications; or

(ii) having checked his professional qualifications, to either require the service provider to take an aptitude test or allow the service provider to provide the services.

Where there is a difficulty which would result in delay in taking a decision under sub-paragraph (ii), the designated authority shall notify the service provider of the

reason for the delay within the same deadline. The difficulty shall be solved within one month of that notification and the decision finalised within two months of resolution of the difficulty.";

(e) for paragraph (c) of sub-regulation (4) thereof there shall be substituted the following:

"(c) Where there is a substantial difference between the professional qualifications of the service provider and the training required in the Malta, to the extent that that difference is such as to be harmful to public health or safety, and that it cannot be compensated by the service provider's professional experience or by knowledge, skills and competences acquired through lifelong learning formally validated to that end by a relevant body, the designated authority shall give that service provider the opportunity to show, by means of an aptitude test, that he has acquired the knowledge, skills or competence that were lacking. The designated authority shall take a decision on that basis on whether to allow the provision of services. In any case, it must be possible to provide the service within one month of the decision taken in accordance with paragraph (b)(ii)."; and

(f) immediately after sub-regulation (4) thereof there shall be added the following new sub-regulation:

"(5) Submission of a required declaration by the service provider in accordance with sub-regulation (1) shall entitle that service provider to have access to the service activity or to exercise that activity in the entire territory of Malta; provided that a designated authority may require additional information listed in sub-regulation (2) concerning the professional qualifications of the service provider if:

(a) the profession is regulated in parts of the territory of Malta in a different manner;

(b) such regulation is applicable also to all nationals of Malta;

(c) the differences in such regulation are justified by overriding reasons of general interest relating to public health or safety of service recipients; and

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(d) the designated authority has no other means of obtaining such information."

Amends
regulation 10 of
the principal
regulations.

29. Sub-regulation (1) of regulation 10 of the principal regulations shall be substituted by the following:

"(1) Designated authorities may ask the competent authorities of the Member State of establishment, in the event of justified doubts, to provide any information relevant to the legality of the service provider's establishment and good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. In the event that the designated authorities decide to check the service provider's professional qualifications, they may ask the competent authorities of the Member State of establishment for information about the service provider's training courses to the extent necessary to assess substantial differences likely to be harmful to public health or safety."

Amends
regulation 12 of
the principal
regulations.

30. In paragraph (a) of regulation 12 of the principal regulations, for the words "Schedule IV" there shall be substituted the words "Schedule II".

Amends
regulation 13 of
the principal
regulations.

31. Regulation 13 of the principal regulations shall be amended as follows:

(a) for the words "regulation 12" there shall be substituted the words "regulations 12 and 16";

(b) for sub-paragraph (ii) of paragraph (c) thereof there shall be substituted the following:

"(ii) regulated education and training or, in the case of regulated professions, vocational training with a special structure, with competences going beyond what is provided for in paragraph (b), equivalent to the level of training provided for under sub-paragraph (i), if such training provides a comparable professional standard and prepares the trainee for a comparable level of responsibilities and functions provided that the diploma is accompanied by a certificate from the home Member State;"

(c) for paragraph (d) thereof there shall be substituted the following:

"(d) a diploma certifying that the holder has successfully completed training at post-secondary level of

at least three and not more than four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course;"; and

(d) for paragraph (e) thereof there shall be substituted the following:

"(e) a diploma certifying that the holder has successfully completed a post-secondary course of at least four years' duration, or of an equivalent duration on a part-time basis, which may in addition be expressed with an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course."

32. In sub-regulation (1) of regulation 14 of the principal regulations for the words "certifying completion of training in the Member States" there shall be substituted the words "certifying completion of training in the Member States, on a full or part-time basis, within or outside formal programmes".

Amends
regulation 14 of
the principal
regulations.

33. Regulation 15 of the principal regulations shall be substituted by the following:

Substitutes
regulation 15 of
the principal
regulations.

"15. (1) If access to or pursuit of a regulated profession in Malta is contingent upon possession of specific professional qualifications, the relative designated authority shall permit applicants to access and pursue that profession, under the same conditions as apply to its nationals, if they possess an attestation of competence or evidence of formal qualifications referred to in regulation 13, required by another Member State in order to gain access to and pursue that profession on its territory:

Provided that the attestations of competence or evidence of formal qualifications must satisfy the condition of having been issued by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that Member State.

(2) Access to, and pursuit of, a profession as described in sub-regulation (1) shall also be granted to applicants who

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have pursued the profession in question on a full-time basis for one year or for an equivalent overall duration on a part-time basis during the previous ten years in another Member State which does not regulate that profession, and who possess one or more attestations of competence or evidence of formal qualifications issued by another Member State which does not regulate the profession. Attestations of competence and evidence of formal qualifications shall satisfy the following conditions:

(a) they shall have been issued by the competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State;

(b) they shall attest that the holder has been prepared for the pursuit of the profession in question.

(3) The one year of professional experience referred to in sub-regulation (2) may not, however, be required if the evidence of formal qualifications which the applicant possesses certifies regulated education and training.

(4) Designated authorities shall accept the level attested under regulation 13 by the home Member State, as well as the certificate by which the home Member State certifies that regulated education and training or vocational training with a special structure referred to in regulation 13(c)(ii) is equivalent to the level provided for in regulation 13(c)(i).

(5) Notwithstanding the provisions of sub-regulations (1) and (2) and regulation 16, a designated authority may refuse access to, and pursuit of, the profession to holders of an attestation of competence classified under regulation 13(a) where the professional qualification required to exercise the profession in Malta is classified under regulation 13(e)."

Amends
regulation 16 of
the principal
regulations.

34. Regulation 16 of the principal regulations shall be amended as follows:

(a) paragraph (a) of sub-regulation (1) thereof shall be deleted;

(b) paragraph (b) of sub-regulation (1) thereof shall be re-numbered as paragraph (a);

(c) paragraph (c) of sub-regulation (1) thereof shall be re-numbered as paragraph (b) and shall be substituted by the

following:

"(b) the regulated profession comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State, and the training required in Malta covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.";

(d) sub-regulation (5) thereof shall be substituted by the following:

"(5) By way of derogation from the principle of the right of the applicant to choose, as laid down in sub-regulation (2), the designated authority may stipulate either an adaptation period or an aptitude test in the case of:

(a) a holder of a professional qualification referred to in regulation 13(a), who applies for recognition of his professional qualifications where the national professional qualification required is classified under regulation 13(c); or

(b) a holder of a professional qualification referred to in regulation 13(b), who applies for recognition of his professional qualifications where the national professional qualification required is classified under regulation 13(d) or (e).

In the case of a holder of a professional qualification referred to in regulation 13(a) who applies for recognition of his professional qualifications where the national professional qualification required is classified under regulation 13(d), the designated authority may impose both an adaptation period and an aptitude test.";

and

(e) immediately after sub-regulation (5) thereof there shall be added the following new sub-regulations:

"(6) Sub-regulation (1) shall be applied with due regard to the principle of proportionality. In particular, if the designated authority intends to require the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his

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professional experience or through lifelong learning, and formally validated to that end by a relevant body, in any Member State or in a third country, is of such nature as to cover, in full or in part, substantially different matters.

(7) The decision imposing an adaptation period or an aptitude test shall be duly justified. In particular, the applicant shall be provided with the following information:

(a) the level of the professional qualification required by the designated authority and the level of the professional qualification held by the applicant in accordance with the classification set out in regulation 13; and

(b) the substantially different matters and the reasons for which those differences cannot be compensated by knowledge, skills and competences acquired in the course of professional experience or through lifelong learning formally validated to that end by a relevant body.

(8) Designated authorities shall ensure that an applicant has the possibility of taking the aptitude test referred to in sub-regulation (1) not later than six months after the initial decision imposing an aptitude test on the applicant."

Deletes
regulation 17 of
the principal
regulations.

35. Regulation 17 of the principal regulations shall be deleted.

Amends
regulation 18 of
the principal
regulations.

36. In regulation 18 of the principal regulations, for the words "Schedule IV" there shall be substituted the words "Schedule II".

Amends
regulation 19 of
the principal
regulations.

37. Regulation 19 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "Schedule IV" there shall be substituted the words "Schedule II"; and

(b) in the Maltese version of paragraph (a) of sub-regulation (1) thereof, the words "jew attivitajiet elenkati fil-Lista I, Skeda IV;" shall be deleted; and

(c) in sub-regulation (3) thereof, for the words "Schedule IV" there shall be substituted the words "Schedule

II".

38. In sub-regulation (1) of regulation 20 of the principal regulations, for the words "Schedule IV" there shall be substituted the words "Schedule II".

Amends regulation 20 of the principal regulations.

39. In sub-regulation (1) of regulation 21 of the principal regulations, for the words "Schedule IV" there shall be substituted the words "Schedule II".

Amends regulation 21 of the principal regulations.

40. Paragraph (b) of sub-regulation (2) of regulation 22 of the principal regulations shall be substituted by the following:

Amends regulation 22 of the principal regulations.

"(b) designated authorities shall ensure, by encouraging continuous professional development, that professionals whose professional qualification is covered by Section III of Part III of these regulations are able to update their knowledge, skills and competences in order to maintain a safe and effective practice and keep abreast of professional developments.".

41. Immediately after regulation 22 of the principal regulations there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Notification to the Commission.

22A. (1) The designated authorities responsible for the professions referred to in regulation 22(1) shall notify the Commission of the laws, regulations and administrative provisions which are adopted with regard to the issuing of evidence of formal qualifications in relation to the professions referred to in regulation 22(1). In the case of evidence of formal qualifications referred to in the *Periti* Act and Mutual Recognition of Qualifications of *Perit* Regulations, notification shall also be addressed to the other Member States.

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(2) The notification referred to in sub-regulation (1) shall include information about the duration and content of the training programmes and shall be transmitted via IMI.".

42. Regulation 24 of the principal regulations shall be amended as follows:

Amends regulation 24 of the principal regulations.

(a) in sub-regulation (1) thereof, for the words "Schedule V" there shall be substituted the words "Schedule III";

(b) in sub-regulation (2) thereof, for the words

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"Schedule V" there shall be substituted the words "Schedule III";

(c) sub-regulations (4) and (5) thereof shall be renumbered as sub-regulations (6) and (7) respectively; and

(d) immediately after sub-regulation (3) thereof there shall be added the following new sub-regulations:

"(4) In the event of justified doubts, the designated authorities may require from the competent authorities of a Member State confirmation of the fact that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of his professional activities.

(5) Exchange of information between designated authorities and competent authorities of different Member States under this regulation shall take place by means of the IMI."

Adds new regulation to the principal regulations.

43. Immediately after regulation 28 of the principal regulations, there shall be added the following new regulation:

"Common training framework.

29. (1) For the purpose of this regulation, "common training framework" means a common set of minimum knowledge, skills and competences necessary for the pursuit of a specific profession. A common training framework shall not replace national training programmes unless otherwise stated by law. For the purpose of access to and pursuit of a profession in Malta which is regulated, the designated authorities shall give evidence of professional qualifications acquired on the basis of such a framework the same effect in Malta as the evidence of formal qualifications which are issued by competent authorities in Malta, on condition that such framework is adopted by means of a delegated act issued by the European Commission in terms of Directive 2005/36/EC.

(2) In the event that the European Commission establishes a common training framework for a given profession by means of a delegated act adopted in accordance with Directive 2005/36/EC, the designated authority responsible for that profession shall be exempted from the obligation of introducing the common training framework and from the obligation of granting automatic recognition to the professional qualifications acquired under that common training framework if one of the following conditions is fulfilled:

(a) there are no education or training institutions available in Malta to offer such training for the profession concerned;

(b) the introduction of the common training framework would adversely affect the organisation of the system of education and professional training in Malta;

(c) there are substantial differences between the common training framework and the training required in Malta, which entail serious risks for public policy, public security, public health or for the safety of the service recipients or the protection of the environment.

(3) The relevant designated authority shall, within six months of the entry into force of the delegated act referred to in sub-regulation (2), notify to the Commission and to the other Member States:

(a) the national qualifications, and where applicable the national professional titles, that comply with the common training framework; or

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(b) any use of the exemption referred to in sub-regulation (2), along with a justification of which conditions under sub-regulation were fulfilled. In the event that the Commission requests further clarification, the designated authority shall reply within three months of any such request."

Adds new regulation to the principal regulations.

44. Immediately after regulation 29 of the principal regulations, there shall be added the following new regulation:

"Common training test.

30. (1) For the purpose of this regulation, a "common training test" means a standardised aptitude test available across participating Member States and reserved to holders of a particular professional qualification. Passing such a test in a Member State shall entitle the holder of a particular professional qualification to pursue the profession in Malta under the same conditions as the holders of professional qualifications in Malta.

(2) In the event that the European Commission establishes a common training test for a given profession by means of a delegated act adopted in accordance with Directive 2005/36/EC, the designated authority responsible for that profession shall be exempted from the obligation of organising the common training test in Malta and from the obligation of granting automatic recognition to professionals who have passed the common training test if one of the following conditions is fulfilled:

(a) the profession concerned is not regulated in Malta;

(b) the contents of the common training test will not sufficiently mitigate serious risks for public health or the safety of the service recipients, which are relevant in Malta;

(c) the contents of the common training test would render access to the profession significantly less attractive compared to national requirements.

(3) The relevant designated authority shall, within six months of the entry into force of the delegated act referred to in sub-regulation (2), notify to the Commission and to the other Member States:

(a) the available capacity for organising such tests; or

(b) any use of the exemption referred to in sub-regulation (2), along with the justification of which conditions under that sub-regulation were fulfilled. In the event that the Commission requests further clarification, the designated authority shall reply within three months of any such request."

45. Immediately after regulation 30 of the principal regulations, there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Professional traineeship.

31. (1) If access to a regulated profession in Malta is contingent upon completion of a professional traineeship, the relevant designated authority shall, when considering a request for authorisation to exercise the regulated profession, recognise professional traineeships carried out in another Member State provided the traineeship is in accordance with the published guidelines referred to in sub-regulation (2), and shall take into account professional traineeships carried out in a third country, subject to any reasonable limits, established by national law, on the duration of the part of the professional traineeship which can be carried out abroad.

(2) Recognition of the professional traineeship shall not replace any requirements in place to pass an examination in order to gain access to the profession in question. The designated authorities shall publish guidelines on the organisation and recognition of professional traineeships carried out in another Member State or in a third country, in particular on the role of the supervisor of the professional traineeship."

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Deletes
Schedules II and
III to the
principal
regulations.

46. Schedules II and III to the principal regulations shall be deleted, and Schedules IV and V shall be renumbered as Schedules II and III respectively.

Amends
Schedule III to
the principal
regulations.

47. Immediately after paragraph (f) of point 1 of Schedule III, as renumbered, to the principal regulations, there shall be added the following:

"(g) Where the designated authority so requires for its own nationals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions."

Part V

Amendments to the Minimum Training Conditions (Health Care Professions) Regulations

Amendments to
the Minimum
Training
Conditions
(Health Care
Professions)
Regulations.
S.L. 451.04

48. (1) This Part amends the Recognition of Minimum Training Conditions (Health Care Professions) Regulations and it shall be read and construed as one with the Minimum Training Conditions (Health Care Professions) Regulations, hereinafter in this Part referred to as "the principal regulations".

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred on the Minister for Education and Employment by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, and article 8 of the Mutual Recognition of Qualifications Act.

Amends
regulation 2 of
the principal
regulations.

49. Regulation 2 of the principal regulations shall be amended as follows:

(a) the present regulation shall be re-numbered as sub-regulation (1) thereof, and shall be substituted by the following:

"(1) These regulations transpose Articles 24, 25, 31, 34, 35, 40 and 44 regarding basic and specialist medical and dental training and the training of nurses responsible for general care, midwives and pharmacists and also Annex V 5.2.1, 5.3.1, 5.5.1 and 5.6.1 of Directive 2005/36/EC of the 7th September 2005 on the Recognition of Professional Qualifications." ; and

(b) immediately after sub-regulation (1), as re-numbered, thereof, there shall be added the following new sub-

regulation (2):

"(2) In these regulations, unless the context otherwise requires:

" "ECTS credits" means the credit system for higher education used in the European Higher Education Area."."

50. Regulation 3 of the principal regulations shall be amended as follows:

Amends
regulation 3 of
the principal
regulations.

(a) for sub-regulation (1) thereof there shall be substituted the following:

"(1) Admission to training for nurses responsible for general care shall be contingent upon either:

(a) completion of general education of twelve years, as attested by a diploma, certificate or other evidence issued by the competent authorities or bodies or a certificate attesting success in an examination of an equivalent level and giving access to universities or to higher education institutions of a level recognised as equivalent; or

(b) completion of general education of at least ten years, as attested by a diploma, certificate or other evidence issued by the competent authorities or bodies or a certificate attesting success in an examination of an equivalent level and giving access to a vocational school or vocational training programme for nursing.

Training of nurses responsible for general care shall be given on a full-time basis and shall include at least the programme described in the Schedule, Part 1.";

(b) for sub-regulation (2) thereof there shall be substituted the following:

"(2) The training of nurses responsible for general care shall comprise a total of at least three years of study, which may in addition be expressed with the equivalent ECTS credits, and shall consist of at least 4 600 hours of theoretical and clinical training, the duration of the theoretical training representing at least one third and the

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duration of the clinical training at least one half of the minimum duration of the training. Partial exemptions may be granted to professionals who have received part of their training on courses which are of at least an equivalent level.";

(c) for sub-regulation (4) thereof there shall be substituted the following:

"(4) Theoretical education is that part of nurse training from which trainee nurses acquire the professional knowledge, skills and competences required under sub-regulations (6) and (7). The training shall be given by teachers of nursing care and by other competent persons, at universities, higher education institutions of a level recognised as equivalent or at vocational schools or through vocational training programmes for nursing.";

(d) in sub-regulation (5) thereof for the words "knowledge and skills" there shall be substituted the words "knowledge, skills and competences";

(e) for sub-regulation (6) thereof there shall be substituted the following:

"(6) Training for nurses responsible for general care shall provide an assurance that the professional in question has acquired the following knowledge and skills:

(a) comprehensive knowledge of the sciences on which general nursing is based, including sufficient understanding of the structure, physiological functions and behaviour of healthy and sick persons, and of the relationship between the state of health and the physical and social environment of the human being;

(b) knowledge of the nature and ethics of the profession and of the general principles of health and nursing;

(c) adequate clinical experience; such experience, which should be selected for its training value, should be gained under the supervision of qualified nursing staff and in places where the number of qualified staff and equipment are appropriate for the nursing care of the patient;

(d) the ability to participate in the practical training of health personnel and experience of working with such personnel; and

(e) experience of working together with members of other professions in the health sector."; and

(f) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulation (7):

"(7) Formal qualifications as a nurse responsible for general care shall provide evidence that the professional in question is able to apply at least the following competences regardless of whether the training took place at universities, higher education institutions of a level recognised as equivalent or at vocational schools or through vocational training programmes for nursing:

(a) competence to independently diagnose the nursing care required using current theoretical and clinical knowledge and to plan, organise and implement nursing care when treating patients on the basis of the knowledge and skills acquired in accordance with sub-regulation (6)(a), (b) and (c) in order to improve professional practice;

(b) competence to work together effectively with other actors in the health sector, including participation in the practical training of health personnel on the basis of the knowledge and skills acquired in accordance with sub-regulation (6)(d) and (e);

(c) competence to empower individuals, families and groups towards healthy lifestyles and self-care on the basis of the knowledge and skills acquired in accordance with sub-regulation (6)(a) and (b);

(d) competence to independently initiate life preserving immediate measures and to carry out measures in crises and disaster situations;

(e) competence to independently give advice to, instruct and support persons needing care and their attachment figures;

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(f) competence to independently assure the quality of, and to evaluate, nursing care;

(g) competence to comprehensively communicate professionally and to cooperate with members of other professions in the health sector;

(h) competence to analyse the care quality to improve his own professional practice as a nurse responsible for general care."

Amends
regulation 4 of
the principal
regulations.

51. Sub-regulation (2) of regulation 4 of the principal regulations shall be substituted by the following:

"(2) Basic dental training shall comprise a total of at least five years of study, which may in addition be expressed with the equivalent ECTS credits, and shall consist of at least 5,000 hours of full-time theoretical and practical training that comprises at least the programme described in Part 2 of the Schedule and that is provided in a university, in a higher institute providing training recognised as being of an equivalent level or under the supervision of a university."

Amends
regulation 5 of
the principal
regulations.

52. Regulation 5 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following:

S.L. 451.03
Cap. 464.

"(1) Admission to specialist dental training shall be contingent upon completion and validation of basic dental training referred to in regulation 4, or possession of the documents referred to in regulation 23 of the Recognition of Professional Qualifications Regulations and in the Health Care Professions Act."; and

(b) in sub-regulation (2) thereof for the word "It" there shall be substituted the word "They".

Amends
regulation 6 of
the principal
regulations.

53. Regulation 6 of the principal regulations shall be amended as follows:

(a) for sub-regulation (3) thereof there shall be

substituted the following:

"(3) Admission to training as a midwife shall be contingent upon one of the following conditions:

(a) completion of at least twelve years of general school education or possession of a certificate attesting success in an examination, of an equivalent level, for admission to a midwifery school for Route I; or

(b) possession of evidence of formal qualifications as a nurse responsible for general care referred to in Part V of the Second Schedule to the Health Care Professions Act for Route II."; and

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(b) for sub-regulation (4) thereof there shall be substituted the following:

"(4) Training as a midwife shall provide an assurance that the professional in question has acquired the following knowledge and skills:

(a) detailed knowledge of the sciences on which the activities of midwives are based, particularly midwifery, obstetrics and gynaecology;

(b) adequate knowledge of the ethics of the profession and the legislation relevant for the practice of the profession;

(c) adequate knowledge of general medical knowledge (biological functions, anatomy and physiology) and of pharmacology in the field of obstetrics and of the newly born, and also knowledge of the relationship between the state of health and the physical and social environment of the human being, and of his behaviour;

(d) adequate clinical experience gained in approved institutions allowing the midwife to be able, independently and under his own responsibility, to the extent necessary and

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excluding pathological situations, to manage the antenatal care, to conduct the delivery and its consequences in approved institutions, and to supervise labour and birth, postnatal care and neonatal resuscitation while awaiting a medical practitioner;

(e) adequate understanding of the training of health personnel and experience of working with such personnel."

Amends
regulation 7 of
the principal
regulations.

54. Sub-regulation (2) of regulation 7 of the principal regulations shall be substituted by the following:

"(2) Evidence of formal qualifications as a pharmacist shall attest to training of at least five years' duration, which may in addition be expressed with the equivalent ECTS credits, comprising at least:

(a) four years of full-time theoretical and practical training at a university or at a higher institute of a level recognised as equivalent, or under the supervision of a university;

(b) during or at the end of the theoretical and practical training, six-month traineeship in a pharmacy which is open to the public or in a hospital under the supervision of that hospital's pharmaceutical department."

Adds new
regulation to the
principal
regulations.

55. Immediately after regulation 7 of the principal regulations there shall be added the following new regulation:

"Admission to
basic medical
training.

8. (1) Admission to basic medical training shall be contingent upon possession of a diploma or certificate providing access, for the studies in question, to universities.

(2) Basic medical training shall comprise a total of at least five years of study, which may in addition be expressed with the equivalent ECTS credits, and shall consist of at least 5 500 hours of theoretical and practical training provided by, or under the supervision of, a university. For professionals who began their studies before 1 January 1972, the course of training referred to in sub-regulation (1) may comprise six months of full-time practical training at university level under the supervision of the competent authorities.

(3) Basic medical training shall provide an assurance that the person in question has acquired the following knowledge and skills:

(a) adequate knowledge of the sciences on which medicine is based and a good understanding of the scientific methods including the principles of measuring biological functions, the evaluation of scientifically established facts and the analysis of data;

(b) sufficient understanding of the structure, functions and behaviour of healthy and sick persons, as well as relations between the state of health and physical and social surroundings of the human being;

(c) adequate knowledge of clinical disciplines and practices, providing him with a coherent picture of mental and physical diseases, of medicine from the points of view of prophylaxis, diagnosis and therapy and of human reproduction;

(d) suitable clinical experience in hospitals under appropriate supervision."

56. Immediately after regulation 8 of the principal regulations, there shall be added the following new regulation:

Adds new regulation to the principal regulations.

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"Admission to
specialist
medical training.

9. (1) Admission to specialist medical training shall be contingent upon completion and validation of a basic medical training programme as referred to in regulation 8(2) in the course of which the trainee has acquired the relevant knowledge of basic medicine.

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(2) Specialist medical training shall comprise theoretical and practical training at a university or medical teaching hospital or, where appropriate, a medical care establishment approved for that purpose by the competent authorities or bodies. The minimum duration of specialist medical training courses referred to in Part 1c of Schedule 2 to the Health Care Professions Act shall be as stated in that Part. Training shall be given under the supervision of the competent authorities or bodies. It shall include personal participation of the trainee specialised doctor in the activity and responsibilities entailed by the services in question.

(3) Training shall be given on a full-time basis at specific recognised establishments. It shall entail participation in the full range of medical activities of the department where the training is given, including duty on call, in such a way that the trainee specialist devotes all his professional activity to his practical and theoretical training throughout the entire working week and throughout the year, in accordance with the procedures laid down by the competent authorities. These posts shall be the subject of appropriate remuneration.

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(4) In the event that national legislation provides for partial exemptions from parts of the specialist medical training courses listed in Part 1c of the Second Schedule to the Health Care Professions Act, then such exemptions shall:

(a) be applied on a case-by-case basis provided that that part of the training has been followed already during another specialist training course listed in Part 1c of the Second Schedule, for which the professional has already obtained the professional qualification in a Member State; and

(b) shall equate to not more than half of the minimum duration of the specialist medical training course in question.

Any national legislation related to such partial exemptions shall be notified to the European Commission and other Member States by the relevant designated authority.

(5) The issuance of evidence of specialist medical training shall be contingent upon possession of evidence of basic medical training referred to in Part 1a of Schedule 2 to the Health Care Professions Act."

Cap. 464.

Part VI

Amendments to the Designation of Various Entities Regulations

57. (1) This Part amends the Designation of Various Entities Regulations, and it shall be read and construed as one with the Designation of Various Entities Regulations hereinafter in this Part referred to as "the principal regulations".

Amendments to the Designation of Various Entities Regulations.
S.L. 500.01

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, on the Minister for Education and Employment, in consultation with the Minister for the Economy, Investment and Small Business, in pursuance of the powers conferred by article 12 of the Services (Internal Market) Act.

58. Regulation 6 of the principal regulations shall be amended as follows:

Amends regulation 6 of the principal regulations.

(a) the present regulation shall be re-numbered as sub-regulation (1) thereof; and

(b) immediately after sub-regulation (1) thereof, as re-

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numbered, there shall be added the following new sub-regulations:

"(2) The following information shall be made available online and through the point of single contact:

(a) a list of all regulated professions in Malta including contact details of the designated authorities for each regulated profession and assistance centres;

(b) a list of the professions for which a European Professional Card in terms of Directive 2005/36/EC is available, the functioning of that Card, including all related fees to be paid by professionals, and the designated authorities responsible for issuing that Card;

(c) a list of all professions for which Malta applies Article 7(4) of Directive 2005/36/EC under national laws, regulations and administrative provisions;

(d) a list of regulated education and training, and training with a special structure, referred to in point (c)(ii) of Article 11 of Directive 2005/36/EC;

(e) the requirements and procedures referred to in Articles 7, 50, 51 and 53 of Directive 2005/36/EC for the professions regulated in Malta, including all related fees to be paid by citizens and documents to be submitted by citizens to designated authorities;

(f) details on how to appeal, under national laws, regulations and administrative provisions, decisions of designated authorities adopted under Directive 2005/36/EC.

(3) The information referred to in sub-regulation (2) shall be updated regularly, shall be accessible remotely and by electronic means by users, and shall be clear and comprehensive. Any requests for information addressed to the point of single contact shall be replied to as soon as possible."

Part VII

Amendments to the Electrical Installations Regulations

59. (1) This Part amends the Electrical Installations Regulations, and it shall be read and construed as one with the Electrical Installations Regulations hereinafter in this Part referred to as "the principal regulations".

Amendments to
the Electrical
Installations
Regulations.
S.L. 545.24

(2) The regulations included in this Part implement certain provisions of Commission Directive 2013/55/EU, and they are made by virtue of the powers conferred by article 38 of the Various Laws (Transposition of Directive 2013/55/EU) (Amendment) Act, 2016, on the Minister for Education and Employment, in consultation with the Minister responsible for Energy, in pursuance of the powers conferred by article 37 of the Regulator for Water and Energy Act.

60. In sub-regulation (2) of regulation 2 of the principal regulations, immediately after the definition "kW" there shall be added the following new definition:

Amends
regulation 2 of
the principal
regulations.

" "lifelong learning" means all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences, which may include professional ethics;"

61. Regulation 10 of the principal regulations shall be amended as follows:

Amends
regulation 10 of
the principal
regulations.

(a) in paragraph (b) of sub-regulation (1) thereof, for the words "two years" there shall be substituted the words "one year";

(b) in paragraph (d) of sub-regulation (2) thereof, for the words "two years" there shall be substituted the words "one year";

(c) in sub-regulation (3) thereof, for the words "public health, safety and security" there shall be substituted the words "public health or safety, and that it cannot be compensated by the service provider's professional experience or knowledge, skills and competences acquired through lifelong learning formally validated to that end by a relevant body";

(d) for sub-regulation (5) thereof there shall be substituted the following:

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"(5) No later than one month after receipt of the declaration and accompanying documents, referred to in sub-regulation (2), the Regulator shall inform the applicant of its decision:

(a) not to check his professional qualifications; or

(b) having checked his professional qualifications, to either require the applicant to take an aptitude test or to allow the provision of services."; and

(e) for sub-regulation (6) thereof there shall be substituted the following:

"(6) Where there is a difficulty which would result in delay in taking a decision under the paragraph (b) of sub-regulation (5), the Regulator shall notify the applicant of the reason for the delay within the same deadline. The difficulty shall be solved within one month of that notification and the decision finalised within two months of resolution of the difficulty.".

