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Recognition of Foreign Professional Qualifications Act¹

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Amended by the following acts

Passed	Published	Entry into force
05.12.2013	RT I, 21.12.2013, 1	22.12.2013

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act establishes the grounds for the recognition of foreign professional qualifications and the conditions of and procedure for working in regulated positions or professions or on a self-employed basis.

(2) This Act applies to the recognition of the professional qualifications of a doctor, dental practitioner, nurse, pharmacist, midwife, veterinary surgeon and architect insofar as it is not otherwise regulated by acts governing the specified fields.

(3) This Act does not apply to regulated positions and professions for which separate conditions and procedure have been established in international or European Union legislation for recognition of professional qualifications.

(4) This Act does not apply to the assessment and academic recognition of evidence of foreign formal qualifications, which takes place on the conditions and in accordance with the procedure established in § 28¹ of the Education Act of the Republic of Estonia.

(5) The provisions of the Administrative Procedure Act apply to the administrative proceedings specified in this Act, taking account of the specifications provided for in this Act.

§ 2. Purpose of Act

The purpose of this Act is, via the recognition of foreign professional qualifications, to enable access to working in a regulated position or profession or on a self-employed basis (hereinafter jointly referred to as *working*) on conditions equal to the professional qualifications required in Estonia.

§ 3. Regulated education, position and profession

(1) 'Regulated education' means any training which is specifically geared to the pursuit of a given profession, specialisation or occupation and which is complemented, where appropriate, by professional training or professional practice based on a curriculum whose requirements have been established by or on the basis of law.

(2) 'Regulated position' means a position that calls for professional qualifications provided by or on the basis of law.

(3) 'Regulated profession' means a professional, specialised or occupational activity where the pursuit of the activity or the use of a professional title presumes professional qualifications provided by or on the basis of law.

(4) For the purposes of subsection (3) of this section 'regulated profession' also means professional activities practiced by members of the associations and organisations recognised by the foreign competent authority on the basis of foreign legislation and listed in Annex I to Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ L 255, 30.09.2005, pp. 22–142).

§ 4. Professional qualifications and foreign professional qualifications

(1) For the purposes of this Act, 'professional qualifications' means education and/or professional experience attested by documentary evidence, which is required for working in a regulated position or profession.

(2) For the purposes of this Act, 'foreign professional qualifications' means qualifications specified in subsection (1) of this section, which have been acquired in a foreign state and comply with the following conditions:

- 1) professional experience means the actual and lawful working in a relevant profession or specialisation;
- 2) education must have been acquired primarily in a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation. If education has been acquired primarily in a foreign state other than a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation, the person must have three years of professional experience in a relevant profession, which has been acquired and attested in a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation that recognised the foreign professional qualifications.

§ 5. Recognition of foreign professional qualifications

(1) Recognition of foreign professional qualifications means proceedings in the course of which:

- 1) the compliance of the foreign professional qualifications acquired by a person with the professional qualifications required in Estonia for working in a regulated position or profession is assessed by comparing the foreign professional qualifications with the professional qualifications required in Estonia, and
- 2) the right of the person who has acquired foreign professional qualifications to work in a regulated position or profession in Estonia is decided.

(2) The recognition of foreign professional qualifications gives the person who acquired foreign professional qualifications the right to work in Estonia in the same position or profession as the one that the person qualified for in the foreign state, on conditions equal to the professional qualifications required in Estonia. The position or profession that the person qualified for in a foreign state is deemed the same as the position or profession regulated in Estonia, provided that the respective professional activities are comparable.

(3) The recognition of foreign professional qualifications does not affect the following of a person who acquired the foreign professional qualifications:

- 1) the right to use the original or transliterated name of the academic degree or title granted in the foreign education system and the official abbreviations thereof;
- 2) the obligation to master the languages required in the regulated position or profession.

§ 6. Applicant

An applicant is a person who has acquired foreign professional qualifications and wishes to work (including temporarily) in a regulated position or profession in Estonia and who is:

- 1) an Estonian citizen;
- 2) a citizen of a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation or their family member and who resides in Estonia on the basis of a temporary or permanent right of residence;
- 3) an alien who resides in Estonia on the basis of a long-term residence permit;
- 4) a person enjoying international protection who resides in Estonia on the basis of a temporary residence permit.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

§ 7. Coordinating authority, competent authority and contact point

(1) The Ministry of Education and Research coordinates the recognition of foreign professional qualifications and the uniform implementation of this Act in Estonia and gathers information concerning the implementation of this Act.

(2) 'Competent authority' means a person, authority or body that, on the conditions and in accordance with the procedure provided for in this Act, compares foreign professional qualifications with the professional qualifications required in Estonia for working in a regulated position or profession and decides the recognition of the foreign professional qualifications of an applicant.

(3) In addition to the provisions of subsection (2) of this section, the competent authority performs the following functions:

- 1) cooperates with contact points and foreign competent authorities, thereby exchanging information with foreign competent authorities about disciplinary or criminal penalties imposed and other events that may have considerable influence on the recognition of the foreign professional qualifications of a person and working in a regulated position or profession;

2) keeps account of the instances of recognition of foreign professional qualifications and applicants and submits relevant reports to the Ministry of Education and Research, the coordinating authority, at the request of the latter;

3) issues to persons evidence and documents concerning the recognition of professional qualifications, which are necessary for the recognition of the professional qualifications and working in a regulated position or profession in Estonia or in a foreign state.

(4) 'Contact point' means a person, authority or body that, in cooperation with competent authorities and other contact points, provides applicants, foreign contact points and, if necessary, other persons with information on the recognition of foreign professional qualifications in Estonia, including on legislation governing a regulated position or profession.

(5) Authorities and contact points competent to recognise foreign professional qualifications will be appointed by an order of the Government of the Republic.

Chapter 2

RECOGNITION OF FOREIGN PROFESSIONAL QUALIFICATIONS FOR WORKING IN ESTONIA

§ 8. Evidence of foreign professional qualifications

(1) 'Evidence of foreign professional qualifications' means a diploma, certificate, attestation of competence or other evidence or set of evidence of formal qualifications or professional experience, which has been issued by a competent authority or person.

(2) Evidence of foreign professional qualifications is grouped under the following five levels, with level 1 being the lowest and level 5 the highest:

1) level 1: an attestation of competence certifies that the applicant has undergone training or passed a specific examination without prior training, which gives the knowledge, skills and competence for working in a regulated position or profession, or the full-time pursuit of the profession in a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years, or general primary or secondary education, attesting that the applicant has acquired general knowledge and skills;

2) level 2: a certificate attesting that the applicant has, following a successful completion of a secondary course or training, successfully completed work-related training in an educational institution or at the workplace or in an educational institution and at the workplace, and has the required professional qualifications for working in a regulated position;

3) level 3: a certificate certifying that the applicant has successfully completed a curriculum at a post-secondary level with a nominal duration of at least one year or completed the special training listed in Annex II to Directive 2005/36 of the European Parliament and of the Council or acquired the regulated education listed in Annex III to Directive 2005/36 of the European Parliament and of the Council, which ensures the level of professional and specialised training equal to the curriculum;

4) level 4: a diploma certifying that the applicant has successfully completed a curriculum at post-secondary level of at least three and up to four years' standard duration at an establishment of higher education as well as, where necessary, the professional training which may be required in addition to the completion of the curriculum;

5) level 5: a diploma certifying that the applicant has successfully completed a curriculum at post-secondary level of at least four years' standard duration at an establishment of higher education as well as, where necessary, the professional training which may be required in addition to the completion of the curriculum.

§ 9. Evidence equivalent to evidence of foreign professional qualifications

The competent authority considers the following evidence of foreign professional qualifications as evidence of the level specified in subsection 8 (2) of this Act:

1) evidence of foreign professional qualifications, which ensures that the applicant has an equal level of professional training in a foreign state and equal access to working in a respective profession or specialisation and whose level the foreign competent authority has recognised as equal to the level specified in subsection 8 (2) of this Act;

2) evidence of foreign professional qualifications, which does not ensure that the applicant has an equal level of professional training in a foreign state, but on the basis of which the applicant has, in accordance with the legislation of the foreign state, obtained the right to work in the respective profession or specialisation and whose level the foreign competent authority has recognised as equal to the level specified in subsection 8 (2) of this Act.

§ 10. Recognition of foreign professional qualifications if position or profession is regulated in foreign state

In the case of a position or profession regulated in Estonia, the competent authority will recognise the applicant's foreign professional qualifications:

- 1) if in the foreign state where the professional qualifications have been obtained the position or profession is regulated and the applicant has the professional qualifications required for working in the regulated position or profession, and
- 2) the evidence of the professional qualifications of the applicant have been issued by the foreign competent authority and the evidence proves the existence of the professional qualifications of at least the level immediately preceding the level required in Estonia and at the level specified in subsection 8 (2) of this Act.

§ 11. Recognition of foreign professional qualifications if position or profession is not regulated in foreign state

(1) In the case of a position or profession regulated in Estonia, the competent authority will recognise the applicant's foreign professional qualifications:

- 1) if in the foreign state where the professional qualifications have been obtained the position or profession is not regulated, but the applicant has pursued the profession full time for at least two consecutive years or part-time equal to the term of full-time work or has acquired qualifications for working in the profession in the foreign state, and
- 2) the evidence of the professional qualifications of the applicant have been issued by the foreign competent authority and the evidence proves the existence of the professional qualifications of at least the level immediately preceding the level required in Estonia and at the level specified in subsection 8 (2) of this Act.

(2) The professional experience specified in clause 1) of subsection (1) of this section is not required if:

- 1) the applicant has acquired relevant regulated education, and
- 2) the evidence of the professional qualifications of the applicant prove the acquisition of regulated education at any one of the levels specified in clauses 8 (2) 2) to 5) of this Act.

§ 12. Recognition of foreign professional qualifications if higher education of over four years is required for working in regulated position or profession

If higher education of over four years is required for working in a regulated position or profession in Estonia, the competent authority will, by way of an exception from subsection 10 (2) and clause 11 (1) 2) of this Act, recognise the foreign professional qualifications of the applicant, provided that the applicant has a certificate specified in clause 8 (2) 3) of this Act.

§ 13. Recognition of foreign professional qualifications in case of substantial differences

(1) If the applicant complies with the conditions specified in §§ 10-12 of this Act, but there are the differences specified in this section, the competent body may require that the applicant take an aptitude test or undergo a one-year adaptation period at the applicant's own choice in the following events:

- 1) the applicant has completed a curriculum in a foreign state, which is at least one year shorter than the Estonian curriculum that serves as the prerequisite for working in a regulated position or profession;
- 2) the applicant has completed a curriculum in a foreign state, which is substantially different from the Estonian curriculum that serves as the prerequisite for working in a regulated position or profession;
- 3) the profession regulated in Estonia involves at least one professional activity that is not part of the respective profession of the foreign state for the purposes of subsection 5 (2) of this Act and the professional activities covered by the regulated profession in Estonia differ substantially from the respective professional activities in the foreign state where the applicant acquired the professional qualifications.

(2) For the purposes of clauses 2) and 3) of subsection (1) of this section, substantial differences mean subjects or matters whose knowledge is important for working in a regulated position or profession and with regard to which the curriculum completed by the applicant differs considerably from the curriculum required in Estonia in terms of the duration as well as substance. Before requiring an aptitude test or an adaptation period, the competent authority must verify whether the applicant has, in the course of obtaining their professional experience, acquired any skills and knowledge that partially or fully cover the substantial differences.

(3) If working in a regulated position or profession calls for thorough knowledge of relevant Estonian legislation and legislation-related assistance or advice that is a substantial and inherent part of the regulated position or profession, the competent authority may demand that the applicant take an aptitude test or undergo an adaptation period regardless of the applicant's choice. The regulated positions and professions whereby an aptitude test or adaptation period may be required will be established by a regulation of the Government of the Republic.

§ 14. Aptitude test and adaptation period

(1) 'Aptitude test' means an examination organised by the competent authority, which verifies the professional, special and occupational knowledge of a person, given that the applicant is qualified in the profession, specialisation or occupation in a foreign state. The purpose of an aptitude test is to assess the person's knowledge and skills that are important for working in a regulated position or profession.

(2) 'Adaptation period' means working under the supervision and responsibility of a qualified employee, civil servant or self-employed person of the respective profession or specialisation, such period of supervised practice being the subject of an assessment by the competent authority and possibly being accompanied by further training. The purpose of the adaptation period is to assess the compliance of the applicant's abilities with the requirements established for working in the regulated position or profession. The adaptation period is governed by requirements established for probationary practice in legislation governing labour and service relationships.

(3) The Government of the Republic will establish the procedure for arrangement and assessment of aptitude tests and adaptation periods.

§ 15. Waiving of aptitude test and adaptation period based on common platform

(1) 'Common platform' means a set of criteria of professional qualifications approved by the committee on the recognition of professional qualifications of the European Commission, which simplify the recognition of professional qualifications and are suitable for compensating for substantial differences identified between the training requirements existing in the various member states of the European Union for a given profession without affecting the contents of the professional qualifications required for pursuing the given profession in the given state or the duration, contents and organisation of the training.

(2) These substantial differences of training specified in subsection (1) of this section are identified by comparison between the duration and contents of the training in at least two thirds of the member states of the European Union, including all member states which regulate this profession or specialisation.

(3) Where the applicant's foreign professional qualifications satisfy the criteria of the common platform specified in subsection (1) of this section, the competent authority will not require an aptitude test or adaptation period.

§ 16. Use of professional title

If the use of a professional title arising from a regulated position or profession is regulated by legislation in Estonia, the applicant whose foreign professional qualifications have been recognised on the basis of this Act will use the respective Estonian professional title and the respective abbreviations when working in the regulated position or profession.

§ 17. Proceedings for recognition of foreign professional qualifications

(1) In order to work in a regulated position or profession, the applicant will submit to the competent authority an application in writing, in a form that can be reproduced in writing or in the electronic form. The competent authority will send a confirmation of the receipt of the application to the applicant within one month after the submission of the application and, where necessary, inform the applicant about missing evidence.

(2) In addition to the application specified in subsection (1) of this section, the competent authority may demand that the applicant submit the following documents:

- 1) the applicant's identity document or extract of the page thereof, which bears the personal data;
- 2) original copies of the evidence of the professional qualifications or notarised, officially authenticated or apostilled copies thereof;
- 3) where necessary, the evidence specified in subsections 18 (1) to (3) of this Act.

(3) In the event of reasonable doubt, the competent authority has the right to ask the foreign competent authority for a confirmation of the authenticity of the evidence of the professional qualifications issued in the foreign state.

(4) If the evidence of professional qualifications partially or fully reflects training completed in a foreign state, the competent authority will, in the event of reasonable doubt, have the right to address the foreign competent authority in order to verify whether:

- 1) the evidence has been issued by a foreign competent authority on the basis of a curriculum that the foreign state considers part of its education system and whether the evidence is recognised by the competent authority in the home country;
- 2) the evidence ensures the same professional and specialisation rights in the foreign state that issued it.

(5) The competent authority has the right to receive information from the foreign competent authority about the applicant's behaviour as well as a temporary or permanent prohibition on practicing and existence or absence of disciplinary and criminal sanctions of a professional nature.

(6) If necessary, the competent authority has the right to request that the applicant submit translations of the evidence specified in clauses 2) and 3) of subsection (2) of this section.

(7) Before submitting an application, the applicant must pay the state fee at the rate specified in the State Fees Act for a review of the application.

(8) The competent authority will review the application and decide the recognition of the applicant's foreign professional qualifications within two months as of the submission of the application and all the documents provided for in the legislation. If additional investigation is required, the competent authority has the right to extend the time limit for making a decision to up to three months, immediately informing the applicant of the extension of the time limit and the reasons thereof.

(9) Upon recognition of the foreign professional qualifications of the applicant, the competent authority has the right, by its decision, to:

- 1) recognise the foreign professional qualifications;
- 2) recognise the foreign professional qualifications in part, imposing on the applicant the obligation to take an aptitude test or complete an adaptation period, where possible;
- 3) refuse to recognise the foreign professional qualifications.

(10) The competent authority will make a decision regarding the recognition of foreign professional qualifications by mail or electronically within ten working days after making the decision.

§ 18. Taking documents into account

(1) If proof of good repute or absence of bankruptcy or absence of prohibition to pursue the profession or absence of other restrictions, such as criminal or misdemeanour sanctions, is required for working in a regulated position or profession in Estonia, the competent authority will accept as sufficient evidence the production of equal documents issued by a foreign competent authority. Where the foreign state does not issue such documents, the competent authority will deem the following as sufficient: a declaration on oath made by the applicant in accordance with foreign legislation or a solemn declaration made by the applicant before a competent judicial or administrative authority, notary or qualified professional body of the foreign state and with regard to which such authority or notary has issued a certificate attesting the authenticity of the declaration on oath or solemn declaration.

(2) Where a document relating to the physical or mental health is required for working in a regulated position or profession in Estonia, the competent authority will accept as sufficient evidence thereof the presentation of the equivalent document required in the foreign state. Where the foreign state does not require such documents, the competent authority will accept an equivalent certificate issued by the competent authority of the foreign state.

(3) Where proof of the financial standing or liability insurance is required for working in a regulated position or profession in Estonia, the competent authority will accept equivalent documents issued by the foreign state as sufficient evidence.

(4) The applicant must submit the evidence and documents specified in subsections (1) to (3) of this section to the competent authority within three months as of the issue of the documents.

(5) Where it is required to swear a solemn oath or make a sworn statement in order to gain access to a regulated position or profession in Estonia, and where the wording of that oath or statement cannot be used by nationals of the other states, the citizens of other states are allowed to use an appropriate equivalent wording of the oath or statement.

Chapter 3 RECOGNITION OF FOREIGN PROFESSIONAL QUALIFICATIONS FOR WORKING IN ESTONIA ON TEMPORARY BASIS

§ 19. Recognition of foreign professional qualifications in case of working on temporary basis

(1) The applicant may work in a regulated position or profession in Estonia on a temporary basis without undergoing the proceedings of recognition of foreign professional qualifications specified in Chapter 2 if the applicant meets the following conditions:

- 1) the applicant works in a member state of the European Union or in a member state of the European Economic Area or in the Swiss Confederation in accordance with the legislation of the home country in the same field of profession that the applicant wishes to pursue in Estonia on a temporary basis, and
- 2) if the position or profession is not regulated in the home state, the applicant has pursued the profession for at least two years over the previous ten years in a member state of the European Union or a member state of the European Economic Area or in the Swiss Confederation specified in clause 1) of this subsection. The two-year professional experience is not required if the applicant has acquired relevant regulated education.

(2) The competent authority will assess separately on each occasion whether the work is performed on a temporary basis, depending on the duration, frequency, regularity, occasionality and continuity of work and the specific characteristics of the work or activity.

(3) In the case of temporary work in Estonia, the applicant is subject to the same requirements of Estonian legislation and professional and specialisation rules that are directly related to professional qualifications and that are applicable to Estonian citizens working in the same regulated position or profession, such as the substance and scope of the field of profession, the use of titles and names, important professional violations relating to consumer protection and safety, and disciplinary liability.

(4) Working in Estonia on a temporary basis does not give the right to use the Estonian professional title or the abbreviation thereof arising from the regulated position or profession, except in the event provided for in subsection 21 (6) of this Act. When working in Estonia on a temporary basis, the applicant uses the original or transliterated professional title prescribed in the foreign state regarding the respective professional activities.

§ 20. Notifying competent authority of working on temporary basis

(1) If the applicant wishes to work in Estonia on a temporary basis for the first time, the applicant must submit to the competent authority not later than by the fourteenth calendar day preceding the commencement of work on a temporary basis a declaration in writing or in a form that can be reproduced in writing or electronically, indicating the period of working on a temporary basis, the place of work, the field of work, and the contact details of the person.

(2) Upon working on a temporary basis for the first time, the applicant must submit to the competent authority the following documents in addition to the declaration specified in subsection (1) of this section:

- 1) the applicant's identity document or extract of the page thereof, which bears the personal data;
- 2) A document issued by the foreign competent authority regarding the compliance of the applicant with clause 19 (1) 1) of this Act, including an attestation that the applicant is not prohibited from practising, temporarily or permanently, at the moment of delivering the attestation;
- 3) evidence of the compliance of the applicant with clause 19 (1) 2) of this Act;
- 4) original copies of the evidence of the professional qualifications or notarised, officially authenticated or apostilled copies thereof;
- 5) evidence of the existence of liability insurance or other professional liability, provided that it is required for working in the regulated position or profession in Estonia;
- 6) evidence of no criminal convictions, provided that it is required for working in the regulated position or profession in Estonia.

(3) The competent authority has the right to receive information from the foreign competent authority about the lawfulness of the applicant's work in the foreign state, the applicant's behaviour as well as absence of disciplinary and criminal sanctions of a professional nature.

(4) In urgent cases, if the applicant did not, with good reason, have a chance to inform the competent authority before commencing work on a temporary basis, the applicant must inform the competent authority about the work on a temporary basis afterwards and submit the declaration and documents specified in subsections (1) and (2) of this section immediately, but not later than within 14 calendar days as of the commencement of work on a temporary basis.

(5) If the applicant has knowingly given false information, failed to submit all the documents specified in subsection (2) of this section, does not comply with the requirements provided for in § 19 of this Act or violates the requirements established to working on a temporary basis by legislation, the competent authority will have the right to suspend the working on a temporary basis and inform the respective foreign competent authority thereof.

(6) The applicant must renew the declaration specified in subsection (1) of this section once a year if the applicant intends to work in Estonia on a temporary basis in the same year. If the data given in the documents specified in subsection (2) of this section has changed considerably and the applicant wishes to work in Estonia on a temporary basis, the applicant must submit new documents to the competent authority.

§ 21. Prior check of foreign professional qualifications

(1) Upon commencement of work on a temporary basis for the first time, in the case of a regulated position or profession having public health or safety implications, the competent authority may check the professional qualifications of the applicant before the applicant commences work in Estonia on a temporary basis. The competent authority has the right to carry out such a prior check only where the purpose of the check is to avoid serious damage to the health or safety of persons due to a lack of professional qualification of the applicant.

(2) Regulated positions and professions whereby foreign qualifications may be subject to a prior check for the purpose of working on a temporary basis will be established by a regulation of the Government of the Republic.

(3) Within one month of receipt of the declaration and accompanying documents specified in § 20 of this Act, the competent authority will endeavour to inform the applicant either of the outcome of such a check or of its decision not to check their qualifications. If further checking is required, the competent authority has the right

to, within the first month, to extend the time limit of the check to up to two months, immediately informing the applicant of the extension of the time limit and the reasons thereof.

(4) Where there is a substantial difference between the professional qualifications of the applicant and the curriculum serving as the prerequisite for working in a regulated position or profession, to the extent that that difference is such as to be harmful to public health or safety, the competent authority will demand that the applicant take an aptitude test. The competent authority will demand an aptitude test keeping in mind that, not later than within one month from the date of the outcome of the check specified in subsection (3) of this section, the applicant could work in Estonia on a temporary basis.

(5) In the absence of a reaction of the competent authority within the deadlines set in sections (3) or (4) of this section, the applicant may work in Estonia on a temporary basis.

(6) If the use of a professional title arising from a regulated position or profession is regulated by legislation in Estonia, the applicant whose foreign professional qualifications have been checked on the basis of this Act will use the respective Estonian professional title and the respective abbreviations when working in the regulated position or profession on a temporary basis.

Chapter 4

IMPLEMENTING PROVISIONS

§ 22.–§ 40.[Omitted from this text.]

§ 41. Entry into force of Act

(1) This Act will enter into force on 1 July 2008.

(2) Section 35 of this Act will enter into force on 1 September 2008.

¹Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ L 255, 30.09.2005, pp. 22–142); Council Directive 2006/100/EC adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, pp. 141–237).