

**SUBSIDIARY LEGISLATION 12.17**

**MUTUAL RECOGNITION OF QUALIFICATIONS OF  
LEGAL PROFESSION REGULATIONS**

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*LEGAL NOTICE 273 of 2002.*

**1.** (1) The title of these regulations is the Mutual Recognition of Legal Profession Regulations. Citation and commencement.

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

**2.** In these regulations, unless the context otherwise requires - Interpretation.

"Code" means the Code of Organisation and Civil Procedure; Cap. 12.

"Commission" means the Commission for the Administration of Justice established by article 101A of the Constitution;

"designated authority" shall have the meaning assigned to it under the Mutual Recognition of Qualifications Act, and in regard to the legal profession, refers to the President of Malta; Cap. 450.

"effective and regular pursuit" means actual exercise of the activity without any interruption other than that resulting from the events of everyday life;

"home Agreement State" means the Agreement State in which a legal professional acquired the right to use one of the professional titles specified by the Minister responsible for justice from time to time, in schedules to be annexed to these regulations;

"home-country professional title" means the professional title used in the Agreement State in which a legal professional acquired the right to use that title before practising the legal profession in Malta;

"legal professional" means any person who is a citizen of an Agreement State and who is authorised to pursue his professional activities under one of the professional titles corresponding to that of advocate and legal procurator as may be specified by the Minister responsible for justice from time to time, in Schedules to be annexed to these regulations and "legal profession" shall be construed accordingly;

"relevant professional title" or "relevant profession" means the professional title or profession governed by the designated authority in Malta.

**3.** Any legal professional shall be entitled to pursue on a permanent or temporary basis in Malta under his home-country country professional title, the activities specified in regulation 7. Right to practice under the home-country professional title.

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\*Not yet in force.

Registration with the designated authority.

**4.** (1) A legal professional who wishes to practise in Malta although he obtained his professional qualification in his home Agreement State shall register with the designated authority.

(2) The designated authority shall register the legal professional upon presentation of a certificate attesting to his registration with the competent authority in the home Agreement State.

(3) The designated authority may require that, when presented by the competent authority of the home Agreement State, the certificate be not more than three months old.

(4) The designated authority shall inform the competent authority in the home Agreement State of the registration in Malta.

Practice under the home-country professional title.

**5.** (1) Where a legal professional is practising in Malta under his home-country professional title, such title shall be expressed in the official language or one of the official languages of his home Agreement State, in an intelligible manner and in such a way as to avoid confusion with the professional title used in Malta.

(2) For the purpose of applying subregulation (1), the designated authority may require a legal professional practising under his home-country professional title to indicate the professional body of which he is a member in his home Agreement State or the judicial authority before which he is entitled to practise pursuant to the laws of his home Agreement State.

(3) The designated authority may also require a legal professional practising under his home-country professional title to include a reference to his registration with the competent authority in that state.

Like treatment as a legal professional in Malta.  
S.L.450.01

**6.** (1) A legal professional practising under his home-country professional title in Malta may, at any time, apply to have his degree recognised in accordance with Part One of the Mutual Recognition of Professional Education and Training Regulations, with a view to gaining admission to the legal profession in Malta and practising it under the professional title corresponding to the profession in Malta and shall not start to so practice before he has obtained such recognition.

(2) A legal professional practising under his home-country professional title who has effectively and regularly pursued for a period of at least three years an activity in Malta in Maltese law shall, with a view to gaining admission to the legal profession in Malta, be exempted by the designated authority from the conditions set out in regulation 9(2) of the Mutual Recognition of Professional Education and Training Regulations.

(3) It shall be for the legal professional concerned to furnish the designated authority with proof of such effective regular pursuit for a period of at least three years of an activity in Maltese law. To that end:

- (a) the legal professional shall provide the designated authority with any relevant information and documentation, notably on the number of matters he

has dealt with and their nature;

- (b) the designated authority may verify the effective and regular nature of the activity pursued and may, if need be, request the legal professional to provide, orally or in writing, clarification of, or further details on, the information and documentation mentioned in paragraph (a).

(4) When an exemption in accordance with subregulations (2) and (3) is not granted, the designated authority shall state the reasons for such refusal and the decision shall be subject to appeal before the Mutual Recognition of Qualifications Appeal Board established under article 7 of the Mutual Recognition of Qualifications Act. Cap. 450.

(5) A legal professional practising under his home-country professional title who has effectively and regularly pursued a professional activity in Malta for a period of at least three years but for a lesser period in Maltese law may obtain from the designated authority admission to the legal profession in Malta and the right to practise it under the professional title corresponding to the profession in Malta without having to meet the conditions referred to in regulation 9(2) of the Mutual Recognition of Professional Education and Training Regulations, under the conditions and in accordance with the procedures set out below: S.L.450.01

- (a) The designated authority shall take into account the effective and regular professional activity pursued during the above-mentioned period and any knowledge and professional experience of Maltese law, and any attendance at lectures or seminars on Maltese law, including the rules regulating professional practice and conduct.
- (b) The legal professional shall provide the designated authority with any relevant information and documentation, in particular on the matters he has dealt with. Assessment of the legal professional's effective and regular activity in Malta and assessment of his capacity to continue the activity he has pursued shall be carried out by means of an interview with the designated authority in order to verify the regular and effective nature of the activity pursued.

(6) When an authorisation in accordance with sub-regulation (5) is not granted, the designated authority shall state the reasons for such refusal, and the decision shall be subject to appeal before the Mutual Recognition of Qualifications Appeals Board established under article 7 of the Mutual Recognition of Qualifications Act. Cap. 450.

(7) The designated authority may, by reasoned decision subject to appeal before the Mutual Recognition of Qualifications Appeals Board established by article 7 of the Mutual Recognition of Qualifications Act, refuse to allow the legal professional the benefit of the provisions of this Regulation if it considers that this would be against public policy, in particular because of disciplinary Cap. 450.

proceedings, complaints or incidents of any kind.

(8) The designated authority entrusted with consideration of the application shall preserve the confidentiality of any information received.

(9) A legal professional who gains admission to the legal profession in Malta in accordance with subregulations (1) to (6) of this regulation shall be entitled to use his home-country professional title, expressed in the official language or one of the official languages of his home Agreement State, alongside the professional title corresponding to the legal profession in Malta.

Areas of activity.

7. (1) A legal professional practising under his home-country professional title carries on the same professional activities as a legal professional practising under the relevant professional title used in Malta and may, *inter alia*, give advice on the law of his home Agreement State, on international law and on the law in Malta. He shall in any event comply with the rules of procedure applicable in the Maltese courts.

(2) Legal professionals whether practising under a home-country professional title or under the relevant professional title shall not practise as a Notary Public in Malta.

(3) For the pursuit of activities relating to the representation or defence of a client in legal proceedings and insofar as the law in Malta reserves such activities to legal professionals practising under the relevant professional title, the designated authority shall require legal professionals practising under their home-country professional titles to work in conjunction with legal professionals who practise before the Maltese Courts and who would, where necessary, be answerable to such courts.

Rules of professional conduct applicable.

8. Irrespective of the rules of professional conduct to which he is subject in his home Agreement State, a legal professional practising under his home-country professional title shall be subject to the same rules of professional conduct as legal professionals practising under the relevant professional title in respect of all the activities he pursues in Malta.

Disciplinary proceedings.

9. (1) In the event of failure by a legal professional practising under his home-country professional title to fulfil the obligations in force in Malta, the rules of procedure, penalties and remedies provided for in Malta shall apply.

(2) Before initiating disciplinary proceedings against a legal professional practising under his home-country professional title, the Commission shall inform the competent authority in the home Agreement State as soon as possible, furnishing it with all the relevant details.

(3) Subregulation (2) shall apply *mutatis mutandis* where disciplinary proceedings are initiated by the competent authority of the home Agreement State, which shall inform the Commission accordingly.

(4) Without prejudice to its decision-making power, the

Commission shall to-operate throughout the disciplinary proceedings with the competent authority in the home Agreement State. In particular, the Commission shall take the measures necessary to ensure that the competent authority in the home Agreement State can make submissions to the bodies responsible for hearing any appeal.

(5) The competent authority in the home Agreement State shall decide what action to take, under its own procedural and substantive rules, in the light of a decision of the Commission concerning a legal professional practising under his home-country professional title.

(6) Although it is not a prerequisite for the decision of the Commission, the temporary or permanent withdrawal by the competent authority in the home Agreement State of the authorisation to practise the profession shall automatically lead to the legal professional concerned being temporarily or permanently prohibited from practising under his home-country professional title in Malta.

**10.** A legal professional registered in Malta under his home-country professional title may practise as a salaried legal professional in the employ of another legal professional, an association or firm of legal professionals, or a public or private enterprise to the extent that the designated authority so permits for legal professionals registered under the professional title used in Malta.

Salaried practice.

**11.** (1) The designated authority shall consider an application as soon as it is reasonably practicable, and shall notify the applicant of its decision together with the reasons upon which it is based within four months of receipt of all the relevant documents.

Decision of the designated authority and appeal.

(2) A remedy for the applicant shall be available against such decision before the Mutual Recognition of Qualifications Appeals Board established under article 7 of the Mutual Recognition of Qualifications Act.

Cap. 450.

**12.** (1) In order to facilitate the application of these regulations and to prevent these provisions from being misapplied for the sole purpose of circumventing the rules applicable in Malta, the designated and the counterpart authority and the counterpart body in the home Agreement State shall collaborate closely and afford each other mutual assistance.

Co-operation between the designated authority and the counterpart body in the home Agreement State and confidentiality.

(2) Both authorities mentioned in subregulation (1) shall preserve the confidentiality of the information they exchange.

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