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Part II

225. Ordinance: EU/EEA Recognition Ordinance

225. Ordinance of the Federal Minister of Economy and Labour on the recognition of documents of competence from another EU member state or EEA member state (EU/EWR Recognition Ordinance)

Based on Section 373c paragraphs 2 to 5 of the Trade Regulation Act 1994, Federal Law Gazette no. 142/1969, most recently amended by the Federal Act, Federal Law Gazette I no. 68/2008, the following is prescribed:

General information

SECTION 1 Upon application, the Federal Minister of Economy and Labour is required to grant by way of notification the recognition of the documented proof of competence of citizens of a member state of the European Union or the European Economic Area if

1. the document has been issued by a member state of the European Union or the European Economic Area,
2. the applicant provides evidence that the activities pursued by him comply with the essential professional criteria of the trade recognition being applied for (relevant qualifications),
3. and no reasons exist for exclusion pursuant to Section 13 of the Austrian Trade Regulation Act 1994, Federal Law Gazette no. 194, as amended in the Federal Act, Federal Law Gazette I no. 42/2008, and
4. the requirements established in Sections 2 to 5 are met.

Trades under Section 17 of Directive 2005/36/EC on the Recognition of Professional Qualifications, Official Journal of the European Communities (OJ) no. L 255 dated 30 September 2005 p. 22

SECTION 2 (1) The following activities or training proven by certificates pursuant to Section 1 must be recognised as sufficient proof of competence in the trades listed in paragraph 2:

1. six years of uninterrupted activity as a freelancer or a company director or
2. three years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training of at least three years in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
3. four years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training of at least two years for the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
4. three years of uninterrupted activity as a freelancer when the applicant provides evidence of at least five years employment in the respective activity, or
5. five years of uninterrupted activity in an executive position, of which at least three years were spent working in a technical function and with responsibility for at least one department of the company, when the applicant provides evidence of a previous training of at least three years in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution.

(2) Paragraph 1 applies to the following trades:

1. baker (craft);
2. builder in terms of implementing activities, well builders;
3. floor layer (craft);
4. bookbinder; case and cassette manufacturing; cardboard goods manufacturing (linked craft);
5. chemical laboratories;
6. roofer (craft);
7. making of women's wear and men's wear; linen manufacture (linked craft);

8. printer and printing block maker;
9. electrical engineering;
10. production of cosmetic articles;
11. production of pyrotechnical articles as well as ignition products and other blasting means not subject to the law on shooting and blasting means and trading in such products (pyrotechnics company), in terms of production;
12. butcher (craft);
13. flower arranger (florist);
14. gas and sanitary engineering;
15. grain miller (craft);
16. glazier, glass preserver and flat glass polisher; hollow glass polisher and hollow glass refiners; glassblowing and glass tool production (linked craft);
17. gold and silversmith; gold, silver and metal formers (linked craft);
18. potter (craft);
19. heating engineering; ventilation engineering (linked craft);
20. manufacturing and processing as well as leasing of medical devices insofar as these activities are not covered by another regulated trade; trade and leasing of medical devices in terms of production;
21. refrigeration and air conditioning engineering (craft);
22. ceramist; paver and floor tiler (linked craft);
23. communications technology (craft);
24. confectioner including gingerbread baker, candied fruit maker, ice cream maker and chocolate manufacturer (craft);
25. automotive engineering; body maker including body tinsmith and body painter (linked craft);
26. furrier; bag maker (leather goods production) (linked craft);
27. polymer processing (craft);
28. house painter; lacquerer; gilder and adorer; sign manufacturing (linked craft);
29. mechatronic technician for mechanical engineering and production technology; mechatronic technician for electronics, office and IT system technology; mechatronic technician for electrical engineering and automation; mechatronic technician for medical device engineering (linked craft);
30. milk technology (craft);
31. surface engineering; metal design (linked craft);
32. organ maker; accordion maker; piano maker; maker of string instruments; maker of woodwind instruments; maker of brass instruments (linked craft);
33. plasterer (craft);
34. upholsterer including vehicle upholsterer and belt maker; fashion accessories production and bag maker (linked craft);
35. metalworking for metal and mechanical engineering; metalworking for smithies and vehicle construction; metalworking for farm and building machines (linked craft);
36. shoemaker (craft);
37. tinsmith; copper smith (linked craft);
38. blasting company;
39. master stone cutter including artificial stone maker and terrazzo maker;
40. plasterer and drywall construction person (craft);
41. wallpaper hanger and decorator (craft);
42. cabinet maker; model maker; boat builder; binder; wood turner; sculptor (linked craft);
43. watchmaker (craft);
44. tyre vulcaniser;
45. technician for heat, cold, noise and fire insulation (craft);
46. arms trade (gun maker) including trading in arms, in terms of production, processing and repairs of non-military weapons and non-military ammunition;
47. master carpenter in terms of implementing activities.

(3) Paragraph 1, line 1 to 4 apply to hairdressing and wig-making trades (stylist) (craft).

(4) The activities cited in paragraph 1 lines 1 and 4 may not date back more than ten years as of the date on which the complete application for recognition is submitted.

(5) A person who has pursued an activity as a company director within the meaning of paragraph 1 is anybody who, in a company of the respective profession, has

1. worked as a director of the company or a branch; or
2. worked as the deputy of the entrepreneur or the director of the company, when this position entailed responsibility that corresponded to that of the entrepreneur or the director he represented; or
3. worked in an executive position with commercial and/or technical tasks and with responsibility for one or more departments of the

company.

Trades under Section 18 of Directive 2005/36/EC

SECTION 3 (1) The following activities or training proven by certificates pursuant to Section 1 must be recognised as sufficient proof of competence in the trades listed in paragraph 2:

1. five years of uninterrupted activity as a freelancer or a company director or
2. three years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training of at least three years in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
3. four years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training of at least two years for the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
4. three years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of at least five years employment for the respective activity, or
5. five years of uninterrupted activity as employed person when the applicant provides evidence of a previous training of at least three years in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
6. six years of uninterrupted activity as an employed person when the applicant provides evidence of a previous training of at least two years in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution.

(2) Paragraph 1 applies to the following trades:

1. professional photographer (craft),
2. monument, façade and building cleaner (craft),
3. travel agencies,
4. forwarding agents including transportation agents and
5. textile cleaners (dry cleaning, launderer and ironer) (craft).

(3) The activities cited in paragraph 1 lines 1 and 4 may not date back more than ten years as of the date on which the complete application for recognition is submitted.

(4) A person who has pursued an activity as a company director within the meaning of paragraph 1 is anybody who, in a company of the respective profession, has

1. worked as a director of the company or a branch; or
2. worked as the deputy of the entrepreneur or the director of the company, when this position entailed responsibility that corresponded to that of the entrepreneur or the director he represented; or
3. worked in an executive position with commercial and/or technical tasks and with responsibility for one or more departments of the

company.

Trades under Section 19 of Directive 2005/36/EC

SECTION 4 (1) The following activities or training proven by certificates pursuant to Section 1 must be recognised as sufficient proof of competence in the trades listed in paragraph 2:

1. three years of uninterrupted activity as a freelancer or a company director or
2. two years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
3. two years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of at least three years employment for the respective activity, or

4. three years of uninterrupted activity as employed person if the applicant provides evidence of a previous training in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution.

(2) Paragraph 1 applies to the following trades:

1. undertaker,
2. production of pyrotechnical articles as well as ignition products and other blasting means not subject to the law on shooting and blasting means and trading in such products (pyrotechnics company), in terms of trade;
3. hotel and catering industry,
4. manufacturing and processing as well as leasing of medical devices insofar as these activities are not covered by another regulated trade; trade and leasing of medical devices in terms of trade and leasing,
5. cosmetics (beauty care),
6. pest control (craft),
7. arms trade (gun maker) including trading in arms, in terms of the trading in non-military weapons and non-military ammunition;

(3) The activities cited in paragraph 1 lines 1 and 3 may not date back more than ten years as of the date on which the complete application for recognition is submitted.

(4) A person who has pursued an activity as a company director within the meaning of paragraph 1 is anybody who, in a company of the respective profession, has

1. worked as a director of the company or a branch; or
2. worked as the deputy of the entrepreneur or the director of the company, when this position entailed responsibility that corresponded to that of the entrepreneur or the director he represented; or
3. worked in an executive position with commercial and/or technical tasks and with responsibility for one or more departments of the

company.

Wholesale trade with toxins (RL 74/556/EEC)

SECTION 5 (1) The following activities or training proven by certificates pursuant to Section 1 must be recognised as sufficient proof of competence in the trade referring to the production and wholesale trade of pharmaceuticals and toxins, in terms of the wholesale trade with toxins:

1. five years of uninterrupted activity as a freelancer or a company director, or
2. two years of uninterrupted activity as a freelancer or a company director when the applicant possesses proof of aptitude and competence in the respective activity that empowers him to pursue the activity of trading in and the distribution of toxins in a member state of the European Union or the European Economic Area, or
3. three years of uninterrupted activity as a freelancer or a company director when the applicant provides evidence of a previous training in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution, or
4. three years of uninterrupted activity as an employed person when the applicant possesses proof of aptitude and competence in the respective activity that empowers him to pursue the activity of trading in and the distribution of toxins in a member state of the European Union or the European Economic Area, or
5. four years of uninterrupted activity as an employed person when the applicant provides evidence of a previous training in the profession in question, confirmed by an officially recognised certificate or fully recognised by a competent professional or trade institution.

(2) The activities cited in paragraph 1 line 1 may not have ended more than two years ago as of the date on which the complete application for recognition is submitted.

(3) A person who pursues an activity as a company director within the meaning of paragraph 1 is anybody who, in a company or trading company in the respective profession, has

1. worked as a director of the company or a branch; or
2. worked as the deputy of the entrepreneur or the director of the company, when this position entailed responsibility that corresponded to that of the entrepreneur or the director he represented; or
3. been commissioned with the trading and distribution of toxins in an executive position and has been responsible for a department of the company or for the use of the aforementioned substances in an executive

position.

Entry into force; termination

§ 6 Concurrent with the entry into force of this Ordinance, the Ordinance of the Federal Minister of Economy and Labour on the recognition of documents of competence from another EU member state or an EEA member state (EU/EWR Recognition Ordinance), Federal Law Gazette II no. 255/2003, ceases to be in force.

Equal treatment in the language used

§ 7 Insofar as the terms referring to persons used in this Ordinance have only the masculine form, they refer equally to women and men. When referring to definite persons, the specific gender shall be used.

Bartenstein