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Act concerning the Assessment of Equivalence of Professional Qualifications

(Professional Qualifications Assessment Act – BQFG)

Part 1

General Provisions

Section 1

Purpose of the Act

This Act serves to improve the use of professional qualifications acquired abroad so that holders of such qualifications can find work commensurate with those qualifications on the German labour market.

Section 2

Scope

(1) This Act shall apply to the assessment of equivalence between foreign training certificates, taking into account other professional qualifications for which evidence is provided, and German training certificates for professions governed by federal law unless otherwise provided in relevant professional legislation. Section 10 of the Federal Expellees Act (*Bundesvertriebenengesetz*) shall remain unaffected.

(2) This Act shall apply to all individuals who have acquired their training certificates abroad and express their intention to work in Germany in a profession commensurate with their qualifications.

Section 3

Definitions

(1) Professional qualifications¹ means qualifications for which evidence is provided by training certificates, certificates of competence or relevant professional experience gained in Germany or abroad.

(2) Training certificates means examination certificates and certificates of competence issued by responsible bodies to attest successful completion of professional training.

(3) Professional training within the meaning of this Act is initial training or further training governed by legal or administrative provisions. Initial training provides the skills and competences required to practise a profession. Such training takes place in a regulated

¹ Translator's note: Professional qualifications include vocational training within the German dual system (Berufsbildungsgesetz, BBiG)

training course, which may also involve the acquisition of the required professional experience. Further training enhances the skills and competences acquired during initial training.

(4) Professions governed by federal law include both non-regulated and regulated professions.

(5) Regulated professions are professions which can only be taken up or practised by individuals who have acquired specific professional qualifications as stipulated by relevant legal or administrative provisions; practising the profession includes holding the professional title, which is limited to individuals with specific professional qualifications in accordance with relevant legal or administrative provisions.

Part 2

Assessment of Equivalence

Chapter 1

Non-Regulated Professions

Section 4

Establishment of equivalence

(1) Upon application, the competent body shall establish equivalence if

1. the foreign training certificate proves that the holder is qualified for professional work similar to that performed by holders of corresponding German training certificates and provided that
2. there is no substantial difference between the professional qualifications for which evidence is provided and corresponding German professional training.

(2) There are substantial differences between the professional qualifications for which evidence is provided and corresponding German professional training if

1. the foreign training certificate refers to skills, knowledge and abilities which differ substantially from the skills, knowledge and abilities referred to in the German training certificate in terms of training content or duration of training,
2. the skills, knowledge and abilities that are different in accordance with number 1 are essential for practising the profession in question and
3. the applicant cannot compensate for such differences by presenting other certificates of competence or proof of relevant professional experience.

Section 5

Documents to be presented

(1) The following documents must be presented together with the application:

1. a table in German listing the completed training courses and work history

2. an identification document
3. the training certificates acquired abroad
4. proof of relevant professional experience or other certificates of competence if they are necessary for establishing equivalence and
5. a statement that no previous application for establishment of equivalence has been filed.

(2) The documents listed in subsection 1 numbers 2 to 4 must be submitted to the competent body as originals or certified copies. German translations must be submitted for the documents listed in subsection 1 numbers 3 and 4. Furthermore, the competent body may request the submission of German translations of the documents listed in subsection 1 number 2 and of all subsequently filed documents. The translations must be made by a publicly appointed or sworn interpreter or translator.

(3) The competent body may allow submission of the documents in a form other than that stipulated in subsection 2.

(4) The competent body may request the applicant to provide information about the content and duration of professional training completed abroad and about other professional qualifications within a reasonable period of time if this is required for the establishment of equivalence.

(5) If there is good reason to doubt the authenticity of the filed documents or the accuracy of the information contained therein, the competent body may request the applicant to submit further appropriate documents within a reasonable period of time.

(6) The applicant must produce appropriate documents which explain his or her intention to work in a profession in Germany which is commensurate with his or her professional qualifications. Evidence of the application for an entry visa to take up paid work, proof of contact with potential employers or a business plan are examples of appropriate documents. Such an explanation need not be produced by applicants domiciled in a Member State of the European Union or another state party to the Agreement on the European Economic Area or in Switzerland nor by nationals of these states unless there are special reasons why such plans should not be approved.

Section 6

Procedure

(1) Applications may be submitted by any individual who has acquired a training certificate abroad as specified in section 3 subsection 2. The application must be submitted to the competent body.

(2) The competent body shall provide confirmation of receipt of the application to the applicant, including the documents to be submitted in accordance with section 5 subsection 1, within a period of one month. The confirmation shall specify the date of receipt by the competent body and the time period in accordance with subsection 3 as well as the terms of commencement of this period. If the documents to be submitted in accordance with section 5 subsection 1 are incomplete, the competent body shall inform the applicant within the period

mentioned in the first sentence which documents remain to be submitted. This communication shall include reference to the fact that the period specified in subsection 3 will not start until receipt of the complete documents.

(3) The competent body must decide on equivalence within three months. The three-month period shall commence on receipt of the complete documents. It may be extended once by a reasonable period of time if this is justified by the special circumstances of the matter. The reasons for extension of the period shall be given and the new period communicated in due time.

(4) The period in accordance with subsection 3 shall be suspended until the period set by the competent body in accordance with section 5 subsections 4 and 5 has expired. The period in accordance with subsection 3 shall be suspended until the other suitable procedure in accordance with section 14 has been concluded.

(5) The application should be rejected if equivalence has already been established under other procedures or by regulation.

Section 7

Form of the decision

(1) The decision on the application in accordance with section 4 subsection 1 shall be provided in the form of a written notification.

(2) If the application must be rejected because equivalence cannot be established due to substantial differences as defined in section 4 subsection 2, the reasons given must include a description of the applicant's existing professional qualifications and of the substantial differences between the existing professional qualifications and corresponding German professional training.

(3) The notification must include information on legal remedies.

Section 8

Competent body

(1) For the purposes of this chapter, the competent body for professional training

1. under the Vocational Training Act (*Berufsbildungsgesetz*) for industrial and commercial occupations other than those of the crafts and trades shall be the chamber of industry and commerce;
2. under the Crafts and Trades Code (*Handwerksordnung*) shall be the chamber of crafts and trades;
3. under the Vocational Training Act for agricultural occupations shall be the chamber of agriculture;
4. under the Vocational Training Act for senior judicial officers shall be the chambers of lawyers, patent attorneys and notaries according to their respective fields;
5. under the Vocational Training Act for auditing and tax consultancy occupations shall be the chambers of public accountants and the chambers of tax consultants according to their respective fields;

6. under the Vocational Training Act for the health care professions shall be the chambers of physicians, dentists, veterinarians and pharmacists according to their respective fields.

(2) Insofar as chambers do not exist for individual occupational sectors specified in subsection 1, the competent body shall be designated by the *Land* concerned.

(3) The competent body for professions in federal administration shall be designated by the supreme federal authority concerned.

(4) The competent body for the occupational sectors not specified in subsections 1 to 3 shall be designated by the *Land* concerned. The *Land* governments are authorized to delegate the duties specified in this chapter to authorities and chambers by statutory instrument.

(5) The competent bodies specified in subsection 1 numbers 2 to 6 and in subsection 2 may agree that the duties assigned to them by this Act shall be performed by another competent body specified in subsections 1 and 2. Such agreement requires the approval of the competent supervisory authorities.

Chapter 2

Regulated Professions

Section 9

Prerequisites of equivalence

(1) In deciding on an applicant's entitlement to enter or practise a profession that is regulated in Germany, the foreign training certificate shall be deemed to be equivalent to the corresponding German training certificate, taking into account other proven professional qualifications, provided that

1. the foreign training certificate proves that the holder is qualified for professional work similar to that performed by holders of corresponding German training certificates
2. the applicant is entitled to practise the profession in the country where training was completed in the case of a profession regulated both in Germany and in the country of training or entitlement to enter or practise the profession was refused for reasons which do not prevent the applicant from entering or practising the profession in Germany and provided that
3. there is no substantial difference between the professional qualifications for which evidence is provided and corresponding German professional training.

(2) There are substantial differences between the professional qualifications for which evidence is provided and corresponding German professional training if

1. the foreign training certificate refers to skills and knowledge which differ substantially from the skills and knowledge referred to in the German training certificate in terms of training content or duration of training,

2. these skills and knowledge are a crucial prerequisite for practising the profession in question and
3. the applicant cannot compensate for such differences by presenting other certificates of competence or proof of relevant professional experience.

Section 10

Assessment of existing professional qualifications

(1) If equivalence cannot be established due to substantial differences as specified in section 9 subsection 2, the decision about the entitlement to enter or practise a profession that is regulated in Germany shall be accompanied by a notification confirming existing professional qualifications and stating the substantial differences with regard to the corresponding German professional training.

(2) The notification shall also indicate which of the measures specified in section 11 may be used to compensate for substantial differences with regard to the required German training certificate.

Section 11

Compensation measures

(1) Substantial differences as specified in section 9 subsection 2 may be compensated by the completion of an adaptation period of a maximum three years which can be the subject of an assessment or else by passing an aptitude test in Germany.

(2) When organising the compensatory measures in accordance with subsection 1, consideration must be given to the existing professional qualifications of the applicant. The content of compensation measures must be limited to the established substantial differences within the meaning of section 9 subsection 2.

(3) The applicant can choose between completion of an adaptation period and passing an aptitude test unless otherwise provided in relevant professional legislation.

Section 12

Documents to be presented

(1) For the purpose of assessment of equivalence, the following documents must be presented together with the application for entitlement to enter or practise a profession that is regulated in Germany:

1. a table in German listing the completed training courses and work history
2. an identification document
3. the training certificates acquired abroad
4. proof of relevant professional experience and other certificates of competence if they are necessary for establishing equivalence

5. a document certifying the applicant's entitlement to practise the profession in the country of training in cases where the provisions of section 9 subsection 1 number 2 apply and
6. a statement that no previous application for establishment of equivalence has been filed.

(2) The documents listed in subsection 1 numbers 2 to 5 must be submitted to the competent body as originals or certified copies. German translations must be submitted for the documents listed in subsection 1 numbers 3 to 5. Furthermore, the competent body may request the submission of German translations of the documents listed in subsection 1 number 2 and of all subsequently filed documents. The translations must be made by a publicly appointed or sworn interpreter or translator.

(3) The competent body may allow submission of the documents in a form other than that stipulated in subsection 2.

(4) The competent body may request the applicant to provide information about the content and duration of training completed abroad and about other professional qualifications within a reasonable period of time if this is required for the assessment of equivalence. If the professional training was completed in a Member State of the European Union or another state party to the Agreement on the European Economic Area or in Switzerland, the competent body may approach the competent body of the country of training.

(5) If there is good reason to doubt the authenticity of the filed documents or the accuracy of the information contained therein, the competent body may request the applicant to submit further appropriate documents. If the documents were issued in a Member State of the European Union or another state party to the Agreement on the European Economic Area or in Switzerland, the competent body may approach the competent body of the country of training.

(6) The applicant must produce appropriate documents which explain his or her intention to work in a profession in Germany which is commensurate with his or her professional qualifications. Evidence of the application for an entry visa to take up paid work, proof of contact with potential employers or a business plan are examples of appropriate documents. Such an explanation need not be produced by applicants domiciled in a Member State of the European Union or another state party to the Agreement on the European Economic Area or in Switzerland nor by nationals of these states unless there are special reasons why such plans should not be approved.

Section 13

Procedure

(1) The assessment of equivalence in accordance with section 9 shall be part of the decision-making process on the applicant's entitlement to enter or practise a profession that is regulated in Germany.

(2) The competent body shall provide confirmation of receipt of the application to the applicant, including the documents to be submitted in accordance with section 12 subsection 1, within a period of one month. The confirmation shall specify the date of receipt

by the competent body and the time period in accordance with subsection 3 as well as the terms of commencement of this period. If the documents to be submitted in accordance with section 12 subsection 1 are incomplete, the competent body shall inform the applicant within the period mentioned in the first sentence which documents remain to be submitted. This communication shall include reference to the fact that the period specified in subsection 3 will not start until receipt of the complete documents.

(3) The competent body must decide on equivalence within three months. The three-month period shall commence on receipt of the complete documents. It may be extended once by a reasonable period of time if this is justified by the special circumstances of the matter. A maximum one-month extension may be granted in accordance with sentence three for applicants who have acquired their training certificates in a Member State of the European Union or another state party to the Agreement on the European Economic Area or in Switzerland or whose training certificates have been recognized in any of these countries. The reasons for extension of the period shall be given and the new period communicated in due time.

(4) The period in accordance with subsection 3 shall be suspended until the period set by the competent body in accordance with section 12 subsections 4 and 5 has expired. The period in accordance with subsection 3 shall be suspended until the other suitable procedure in accordance with section 14 has been concluded.

(5) The competent body shall act in accordance with applicable specialist law.

Chapter 3

Common Provisions

Section 14

Other procedures for the establishment of equivalence without relevant documents

(1) If the applicant cannot submit all or part of the documents required for the establishment or assessment of equivalence in accordance with section 5 subsections 1, 4 and 5 or section 12 subsections 1, 4 and 5 for reasons beyond his or her control or if submission of relevant documents involves an unreasonable expenditure of time and effort, the competent body shall apply other suitable procedures to establish the applicant's professional skills, knowledge and abilities required for comparison with corresponding German professional training. The applicant must substantiate the reasons for not submitting relevant documents. The competent body is entitled to request and accept a statutory declaration.

(2) Other suitable procedures to ascertain professional skills, knowledge and abilities as specified in subsection 1 include in particular work samples, interviews, practical and theoretical examinations and expert opinions.

(3) The establishment or assessment of equivalence in accordance with sections 4 or 9 shall be based on the results of other procedures as specified in subsections 1 and 2.

Section 15

Obligations of cooperation

- (1) The applicant must submit all documents needed for ascertaining equivalence and provide any information needed for this purpose.
- (2) If the applicant does not meet this obligation to cooperate and if clarification of the matter is substantially complicated by this fact, the competent body may reach its decision without further inquiry. This shall also apply if clarification of the matter is substantially complicated by the applicant in any other way.
- (3) The application may not be rejected due to a lack of cooperation unless the applicant has received previous written notification regarding the consequences and has not fulfilled the obligation to cooperate within a reasonable period of time.

Section 16

Recourse to law

Recourse to administrative law shall be possible for any dispute under this Act.

Part 3

Final Provisions

Section 17

Statistics

- (1) Federal statistics shall be compiled on applications for assessment of equivalence processed under this Act and other professional laws and regulations.
- (2) The annual statistics shall cover the following variables for the previous calendar year:
 1. Nationality, gender, date of application, place of residence of the applicant
 2. Country of training, corresponding German profession or corresponding German training
 3. Date of decision, subject and nature of decision
 4. Notifications and decisions regarding the freedom to provide services in accordance with Article 7 paras 1 and 4 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255 of 30 Sept 2005, p. 22; L 271 of 16 Oct 2007, p. 18; L 93 of 4 April 2008, p. 28; L 33 of 3 Feb 2009, p. 49), last amended by Directive (EC) No. 279/2009, OJ L 93 of 7 April 2009, p. 11), in whichever version is applicable
 5. Any legal remedies filed and subsequent decisions.
- (3) Auxiliary variables are
 1. Names and addresses of the persons required to give information

2. Name, telephone number and e-mail address of the person to whom queries may be addressed.

(4) There is an obligation to provide information for this survey. Information in accordance with subsection 3 number 2 is voluntary. Information must be provided by the bodies responsible for the procedures to establish equivalence in accordance with this Act and other professional laws and regulations.

(5) The information must be transmitted electronically to the statistical offices of the *Länder*.

(6) The Federal Government is authorized to adopt statutory instruments with the approval of the Bundesrat which

1. suspend the collection of data about individual variables, extend the periodicity and limit the group of people to be surveyed in the event that the results are no longer needed or are no longer needed in such detail or as frequently as originally planned;
2. introduce new variables to be surveyed where this is necessary to meet changed requirements for the purpose specified in section 1 and where broadening of the scope of the survey is avoided by parallel suspension of other variables; variables referring to special categories of personal data in accordance with section 3 subsection 9 of the Federal Data Protection Act may not be introduced;
3. provide for the survey of variables to the extent that this is required for transposing or implementing legal acts of the European Community.

Section 18

Evaluation and reporting

(1) The Federal Government shall review the application and impact of this Act at the end of a four-year period following its entry into force on the basis of the statistics compiled in accordance with section 17.

(2) The result shall be reported to the German *Bundestag* and *Bundesrat*.

Section 19

Exclusion of deviating *Land* legislation

Land legislation may not deviate from the provisions of sections 5 to 7, 10 and 12, section 13 subsections 1 to 4 and sections 14 and 15 governing the administrative procedure.