

DIRECTIVE 1999/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 June 1999

establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications

THE EUROPEAN PARLIAMENT AND
THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 40 and 47(1), the first and third sentences of Article 47(2), and Article 55 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion delivered by the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾ and in the light of the joint text adopted on 22 April 1999,

- (1) Whereas, under the Treaty, all discriminatory treatment on grounds of nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas, therefore, certain provisions of the Directives applying in this area have become redundant for the purposes of applying the rule of national treatment, since that rule is enshrined in the Treaty itself and has direct effect;
- (2) Whereas, however, certain of the Directives' provisions designed to facilitate the effective exercise of the right of establishment and freedom to provide services should be retained, particularly where they usefully prescribe how obligations under the Treaty are to be discharged;
- (3) Whereas, in order to facilitate the exercise of freedom of establishment and freedom to provide services in respect of a number of activities, Directives introducing transitional measures have been adopted pending mutual recognition of qualifications; whereas those Directives accept the fact that the activity in question has been pursued for a reasonable and sufficiently recent period of time in the Member State from which the national comes as a sufficient qualification for taking up the activities in question in Member States which have rules governing the taking up of such activities;
- (4) Whereas the main provisions of the said Directives should be replaced in line with the conclusions of the European Council held in Edinburgh on 11 and 12 December 1992 regarding subsidiarity, simplification of

Community legislation and, in particular, the reconsideration by the Commission of the relatively old directives dealing with professional qualifications; whereas the Directives in question should therefore be repealed;

- (5) Whereas Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration ⁽⁴⁾ and Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC ⁽⁵⁾ do not apply to certain professional activities covered by the Directives applying to this subject-matter (Part One of Annex A to this Directive); whereas recognition machinery in respect of qualifications should, therefore, be introduced for those professional activities not covered by Directives 89/48/EEC and 92/51/EEC; whereas the professional activities listed in Part Two of Annex A to this Directive fall for the most part within the scope of Directive 92/51/EEC as far as the recognition of diplomas is concerned;
- (6) Whereas a proposal has been transmitted to the Council with a view to amending Directives 89/48/EEC and 92/51/EEC in respect of the proof of financial standing and the proof of an insurance against financial risks that a host Member State may require of the beneficiary; whereas the Council intends to deal with this proposal at a later stage;
- (7) Whereas a proposal has been transmitted to the Council with a view to facilitating the free movement of specialised nurses who do not have any of the qualifications listed in Article 3 of Directive 77/452/EEC ⁽⁶⁾; whereas the Council intends to deal with this proposal at a later stage;
- (8) Whereas this Directive should require regular reports to be drawn up on its implementation;
- (9) Whereas this Directive without prejudice to the application of Articles 39(4) and 45 of the Treaty,

⁽¹⁾ OJ C 115, 19.4.1996, p. 16 and OJ C 264, 30.8.1997, p. 5.

⁽²⁾ OJ C 295, 7.10.1996, p. 43.

⁽³⁾ Opinion of the European Parliament of 20 February 1997 (OJ C 85, 17.3.1997, p. 114), Common Position of the Council of 29 June 1998 (OJ C 262, 19.8.1998, p. 12), Decision of the European Parliament of 8 October 1998 (OJ C 328, 26.10.1998, p. 156), Decision of the European Parliament of 7 May 1999 and Council Decision of 11 May 1999.

⁽⁴⁾ OJ L 19, 24.1.1989, p. 16.

⁽⁵⁾ OJ L 209, 24.7.1992, p. 25. Directive as last amended by Commission Directive 97/38/EC (OJ L 184, 12.7.1997, p. 31).

⁽⁶⁾ Council Directive 77/452/EEC of 27 June 1977 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of nurses responsible for general care, including measures to facilitate the effective exercise of this right of establishment and freedom to provide services (OJ L 176, 15.7.1977, p. 1). Directive as last amended by Directive 90/658/EC (OJ L 353, 17.12.1990, p. 73).

HAVE ADOPTED THIS DIRECTIVE:

TITLE I

Scope

Article 1

1. Member States shall adopt the measures defined in this Directive in respect of establishment or provision of services in their territories by natural persons and companies or firms covered by Title I of the General Programmes for the abolition of restrictions on freedom to supply services⁽¹⁾ and on freedom of establishment⁽²⁾ (hereinafter called 'beneficiaries') who wish to pursue the activities listed in Annex A.

2. This Directive shall apply to the activities listed in Annex A which nationals of Member States wish to pursue in a host Member State in a self-employed or employed capacity.

Article 2

Member States in which the taking-up or pursuit of any activity referred to in Annex A is subject to possession of certain qualifications shall ensure that any beneficiaries who apply therefor be provided, before they establish themselves or before they begin to provide services, with information as to the rules governing the occupation which they propose to pursue.

TITLE II

Recognition of formal qualifications awarded by another Member State

Article 3

1. Without prejudice to Article 4, a Member State may not, on the grounds of inadequate qualifications, refuse to permit a national of another Member State to take up or pursue any of the activities listed in Part One of Annex A on the same conditions as apply to its own nationals, without having first compared the knowledge and skills certified by the diplomas, certificates or other evidence of formal qualifications obtained by the beneficiary with a view to pursuing the same activity elsewhere in the Community with those required under its own national rules. Where the comparative examination shows that the knowledge and skills certified by a diploma, certificate or other evidence of formal qualifications awarded by another Member State correspond to those required by the national rules, the host Member State cannot refuse the holder the right to pursue the activity in question. Where, however, the comparative examination shows a substantial difference, the host Member State shall give the beneficiary the opportunity to demonstrate that he has acquired the knowledge and skills which were lacking. In this case, the host Member State shall give the applicant the right to choose between an adaptation period and an aptitude test by analogy with Directives 89/48/EEC and 92/51/EEC.

⁽¹⁾ OJ 2, 15.1.1962, p. 32/62.

⁽²⁾ OJ 2, 15.1.1962, p. 36/62.

By way of derogation from this rule, the host Member State may require an adaptation period or an aptitude test if the migrant envisages exercising professional activities in a self-employed capacity or as a manager of an undertaking which are covered by Part One of Annex A and which require the knowledge and the application of the specific national rules in force, provided that knowledge and application of those rules are required by the competent authorities of the host Member State for access to such activities by its own nationals.

Member States shall endeavour to take into consideration the beneficiary's preference as between those alternatives.

2. Applications for recognition within the meaning of paragraph 1 shall be examined within the shortest possible time, and the competent authority in the host Member State shall state its reasons when giving a decision, which shall be taken no later than four months from the date on which the application and comprehensive supporting documentation were submitted. There shall be a right to appeal under national law against a decision or against the absence of such decision.

TITLE III

Recognition of professional qualifications on the basis of professional experience acquired in another Member State

Article 4

Where, in a Member State, the taking-up or pursuit of any activity listed in Annex A is subject to possession of general, commercial or professional knowledge and ability, that Member State shall accept as sufficient evidence of such knowledge and ability the fact that the activity in question has been pursued in another Member State. Where the activity is mentioned in Part One of Annex A, it must have been pursued:

1. in the case of the activities in List I:

- (a) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
- (b) for three consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
- (c) for three consecutive years in a self-employed capacity where the beneficiary proves that he has pursued the activity in question for at least five years in an employed capacity; or
- (d) for five consecutive years in a managerial capacity of which at least three years were spent in technical posts with responsibility for one or more departments of the undertaking where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements.

In the cases referred to in (a) and (c), pursuit of the activity shall not have ceased more than ten years before the date on which the application under Article 8 is made;

2. in the case of the activities in List II:

- (a) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
- (b) — for three consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, or
— for four consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received at least two years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, or
- (c) for three consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has pursued the activity in question for at least five years in an employed capacity; or
- (d) — for five consecutive years in an employed capacity where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, or
— for six consecutive years in an employed capacity where the beneficiary proves that he has received at least two years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements.

In the cases referred to in (a) and (c), pursuit of the activity shall not have ceased more than ten years before the date on which the application provided for in Article 8 is made;

3. in the case of the activities in List III:

- (a) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
- (b) for three consecutive years in a self-employed capacity or as a manager of an undertaking, where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
- (c) for three consecutive years in a self-employed capacity where the beneficiary proves that he has pursued the activity in question for at least five years in an employed capacity.

In the cases referred to in (a) and (c), pursuit of the activity shall not have ceased more than ten years before the date on which the application provided for in Article 8 is made;

4. in the case of the activities in List IV:

- (a) for five consecutive years in either a self-employed capacity or as a manager of an undertaking; or
- (b) for two consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
- (c) for three consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received at least two years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
- (d) for two consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has pursued the activity in question for at least three years in an employed capacity; or
- (e) for three consecutive years in an employed capacity where the beneficiary proves that he has received at least two years' previous training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements;

5. in the case of the activities in List V(a) and (b):

- (a) for three years in a self-employed capacity or as a manager of an undertaking, provided that pursuit of the activity in question did not cease more than two years before the date on which the application provided for in Article 8 is made;
- (b) for three years in a self-employed capacity or as a manager of an undertaking, provided that pursuit of the activity in question did not cease more than two years before the date on which the application provided for in Article 8 is made, unless the host Member State permits its nationals to interrupt their pursuit of that activity for a longer period; or

6. in the case of the activities in List VI:

- (a) for three consecutive years in either a self-employed capacity or as a manager of an undertaking; or
- (b) for two consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has received prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or

- (c) for two consecutive years in a self-employed capacity or as a manager of an undertaking where the beneficiary proves that he has pursued the activity in question for at least three years in an employed capacity; or
- (d) for three consecutive years in an employed capacity where the beneficiary proves that he has received previous training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements.

In the cases referred to in (a) and (c), pursuit of the activity shall not have ceased more than 10 years before the date on which the application provided for in Article 8 is made.

Article 5

Where a beneficiary holds a nationally recognised certificate obtained in a Member State attesting to knowledge of and ability in the activity in question equivalent to at least two or three years, as appropriate, of professional training, that certificate may be treated by the host Member State in the same way as a certificate attesting to training of the duration required by Article 4(1)(b) and (d), (2)(b) and (d), (3)(b) and (4)(b), (c) and (e).

Article 6

Where the duration of the training of the beneficiary is at least two years and less than three years, the requirements of Article 4 shall be satisfied if the duration of professional experience in a self-employed capacity or as a manager specified in Article 4(1)(b) and (d), (2)(b), first indent, (3)(b) and (4)(b) or in an employed capacity specified in Article 4(2)(d), first indent is extended in the same proportion to cover the difference in the duration of the training.

Article 7

A person shall be regarded as having pursued an activity as a manager of an undertaking within the meaning of Article 4 if he has pursued such an activity in an undertaking in the occupational field in question:

- (a) as a manager of an undertaking or a manager of a branch of an undertaking; or
- (b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking.

Article 8

Proof that the conditions laid down in Article 4 are satisfied shall be established by a certificate concerning the nature and duration of the activity issued by the competent authority or body in the home Member State or in the Member State from where the beneficiary comes which the beneficiary must submit in support of his application for authorisation to pursue the activity or activities in question in the host Member State.

TITLE IV

Recognition of other professional qualifications obtained in another Member State

Article 9

1. Where a host Member State requires its own nationals wishing to take up any activity referred to in Article 1(2) to furnish proof of good character and proof that they are not and have not previously been declared bankrupt, or proof of either of these, it shall accept as sufficient evidence, in respect of nationals of other Member States, the production of an extract from the 'judicial record' or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the home Member State or in the Member State from where the beneficiary comes showing that these requirements are satisfied.

2. Where a host Member State imposes on its own nationals wishing to take up any activity referred to in Article 1(2) certain requirements as to good character and requires them to prove that they are not and have not previously been declared bankrupt and have not previously been the subject of professional or administrative disciplinary measures (for example, withdrawal of the right to hold certain offices, suspension from practice or striking-off), but proof cannot be obtained from the document referred to in paragraph 1 of this Article, it shall accept as sufficient evidence in respect of nationals of other Member States a certificate issued by a competent judicial or administrative authority in the home Member State or in the Member State from where the beneficiary comes attesting that the requirements are satisfied. Such certificate shall relate to the specific facts regarded as relevant by the host Member State.

3. Where the home Member State or the Member State from where the beneficiary comes does not issue the documents referred to in paragraphs 1 and 2, such documents shall be replaced by a declaration on oath — or, in those Member States where there is no provision for such declaration on oath, by a solemn declaration — made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary in that Member State; such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration. The declaration of no previous bankruptcy may also be made before a competent professional or trade body in that Member State.

4. Where a host Member State requires proof of financial standing, it shall regard certificates issued by banks in the home Member State or in the Member State from where the beneficiary comes as equivalent to those issued in its own territory.

5. Where a host Member State requires its own nationals wishing to take up or pursue any activity referred to in Article 1(2) to furnish proof that they are insured against the financial risks arising from their professional liability, it shall accept certificates issued by the insurance undertakings of other Member States as equivalent to those issued in its own territory. Such certificates shall state that the insurer has complied with the laws and regulations in force in the host Member State regarding the terms and extent of cover.

6. At the time of their production, the documents referred to in paragraphs 1, 2, 3 and 5 may not date from more than three months after their date of issue.

TITLE V

Procedural provisions

Article 10

1. Member States shall designate, within the period stipulated in Article 14, the authorities and bodies responsible for issuing the certificates referred to in Articles 8 and 9(1), (2) and (3) and shall communicate this information forthwith to the other Member States and to the Commission.

2. Each Member State may nominate a coordinator for the activities of the authorities and bodies referred to in paragraph 1 to the coordinating group set up under Article 9(2) of Directive 89/48/EEC. The tasks of the coordinating group shall also be as follows:

- facilitating the implementation of this Directive;
- collecting all useful information for its application in the Member States and especially gathering and comparing information on the different professional qualifications in the areas of activity falling within the scope of this Directive.

TITLE VI

Final provisions

Article 11

1. The Directives listed in Annex B are hereby repealed.
2. References to the repealed Directives shall be construed as references to this Directive.

Article 12

As from 1 January 2001, Member States shall communicate to the Commission every two years a report on the application of the system introduced.

In addition to general remarks, that report shall contain a statistical summary of the decisions taken and a description of the main problems arising from the application of this Directive.

Article 13

Not later than five years after the date referred to in Article 14, the Commission shall report to the European Parliament and the Council on the state of application of this Directive, and in particular of Article 5, in the Member States.

After undertaking all the necessary hearings, especially of the coordinators, the Commission shall submit its conclusions regarding any changes to the existing arrangement. If necessary, the Commission shall also submit proposals for improving the existing arrangements with the aim of facilitating free movement of persons, the right of establishment and freedom to provide services.

Article 14

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 31 July 2001. They shall immediately inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 15

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 16

This Directive is addressed to the Member States.

Done at Luxembourg, 7 June 1999.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

E. BULMAHN

ANNEX A

PART ONE

Activities related to categories of professional experience**List I**

Major Groups covered by Directive 64/427/EEC, as amended by Directive 69/77/EEC, and by Directives 68/366/EEC, 75/368/EEC and 75/369/EEC

1

*Directive 64/427/EEC**(liberalisation Directive: 64/429/EEC)**NICE Nomenclature (corresponding to ISIC Major Groups 23-40)*

Major Group 23	Manufacture of textiles
232	Manufacturing and processing of textile materials on woollen machinery
233	Manufacturing and processing of textile materials on cotton machinery
234	Manufacturing and processing of textile materials on silk machinery
235	Manufacturing and processing of textile materials on flax and hemp machinery
236	Other textile fibre industries (jute, hard fibres, etc.) cordage
237	Manufacture of knitted and crocheted goods
238	Textile finishing
239	Other textile industries
Major Group 24	Manufacture of footwear, other wearing apparel and bedding
241	Machine manufacture of footwear (except from rubber or wood)
242	Manufacture by hand and repair of footwear
243	Manufacture of wearing apparel (except furs)
244	Manufacture of mattresses and bedding
245	Skin and fur industries
Major Group 25	Manufacture of wood and cork, except manufacture of furniture
251	Sawing and industrial preparation of wood
252	Manufacture of semi-finished wood products
253	Series production of wooden building components including flooring
254	Manufacture of wooden containers
255	Manufacture of other wooden products (except furniture)
259	Manufacture of straw, cork, basketware, wicker-work and rattan products; brush-making
Major Group 26	260 Manufacture of wooden furniture
Major Group 27	Manufacture of paper and paper products
271	Manufacture of pulp, paper and paperboard
272	Processing of paper and paperboard, and manufacture of articles of pulp
Major Group 28	280 Printing, publishing and allied industries
Major Group 29	Leather industry
291	Tanneries and leather finishing plants
292	Manufacture of leather products

- ex Major Group 30 Manufacture of rubber and plastic products, man-made fibres and starch products
- 301 Processing of rubber and asbestos
 - 302 Processing of plastic materials
 - 303 Production of man-made fibres
- ex Major Group 31 Chemical industry
- 311 Manufacture of chemical base materials and further processing of such materials
 - 312 Specialised manufacture of chemical products principally for industrial and agricultural purposes (including the manufacture for industrial use of fats and oils of vegetable or animal origin falling within ISIC Group 312)
 - 313 Specialised manufacture of chemical products principally for domestic or office use (excluding the manufacture of medicinal and pharmaceutical products (ISIC ex Group 319))
- Major Group 32 320 Petroleum industry
- Major Group 33 Manufacture of non-metallic mineral products
- 331 Manufacture of structural clay products
 - 332 Manufacture of glass and glass products
 - 333 Manufacture of ceramic products, including refractory goods
 - 334 Manufacture of cement, lime and plaster
 - 335 Manufacture of structural materials, in concrete, cement and plaster
 - 339 Stone working and manufacture of other non-metallic mineral products
- Major Group 34 Production and primary transformation of ferrous and non-ferrous metals
- 341 Iron and steel industry (as defined in the ECSC Treaty, including integrated steelworks-owned coking plants)
 - 342 Manufacture of steel tubes
 - 343 Wire-drawing, cold-drawing, cold-rolling of strip, cold-forming
 - 344 Production and primary transformation of non-ferrous metals
 - 345 Ferrous and non-ferrous metal foundries
- Major Group 35 Manufacture of metal products (except machinery and transport equipment)
- 351 Forging, heavy stamping and heavy pressing
 - 352 Secondary transformation and surface-treatment
 - 353 Metal structures
 - 354 Boilermaking, manufacture of industrial hollow-ware
 - 355 Manufacture of tools and implements and finished articles of metal (except electrical equipment)
 - 359 Ancillary mechanical engineering activities
- Major Group 36 Manufacture of machinery other than electrical machinery
- 361 Manufacture of agricultural machinery and tractors
 - 362 Manufacture of office machinery
 - 363 Manufacture of metal-working and other machine-tools and fixtures and attachments for these and for other powered tools
 - 364 Manufacture of textile machinery and accessories, manufacture of sewing machines
 - 365 Manufacture of machinery and equipment for the food-manufacturing and beverage industries and for the chemical and allied industries
 - 366 Manufacture of plant and equipment for mines, iron and steel works foundries, and for the construction industry; manufacture of mechanical handling equipment
 - 367 Manufacture of transmission equipment
 - 368 Manufacture of machinery for other specific industrial purposes
 - 369 Manufacture of other non-electrical machinery and equipment

Major Group 37	Electrical engineering
	371 Manufacture of electric wiring and cables
	372 Manufacture of motors, generators, transformers, switch gear, and other similar equipment for the provision of electric power
	373 Manufacture of electrical equipment for direct commercial use
	374 Manufacture of telecommunications equipment, meters, other measuring appliances and electromedical equipment
	375 Manufacture of electronic equipment, radio and television receivers, audio equipment
	376 Manufacture of electric appliances for domestic use
	377 Manufacture of lamps and lighting equipment
	378 Manufacture of batteries and accumulators
	379 Repair, assembly and specialist installation of electrical equipment
ex Major Group 38	Manufacture of transport equipment
	383 Manufacture of motor vehicles and parts thereof
	384 Repair of motor vehicles, motorcycles and cycles
	385 Manufacture of motorcycles, cycles and parts thereof
	389 Manufacture of transport equipment not elsewhere classified
Major Group 39	Miscellaneous manufacturing industries
	391 Manufacture of precision instruments and measuring and controlling instruments
	392 Manufacture of medico-surgical instruments and equipment and orthopaedic appliances (except orthopaedic footwear)
	393 Manufacture of photographic and optical equipment
	394 Manufacture and repair of watches and clocks
	395 Jewellery and precious metal manufacturing
	396 Manufacture and repair of musical instruments
	397 Manufacture of games, toys, sporting and athletic goods
	399 Other manufacturing industries
Major Group 40	Construction
	400 Construction (non-specialised); demolition
	401 Construction of buildings (dwellings or other)
	402 Civil engineering; building of roads, bridges, railways, etc.
	403 Installation work
	404 Decorating and finishing

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*Directive 68/366/EEC**(liberalisation Directive 68/365/EEC)**NICE Nomenclature*

Major Group 20 A	200 Industries producing animal and vegetable fats and oils
20 B	Food manufacturing industries (excluding the beverage industry)
	201 Slaughtering, preparation and preserving of meat
	202 Milk and milk products industry
	203 Canning and preserving of fruits and vegetables
	204 Canning and preserving of fish and other sea foods
	205 Manufacture of grain mill products
	206 Manufacture of bakery products, including rusks and biscuits
	207 Sugar industry
	208 Manufacture of cocoa, chocolate and sugar confectionery
	209 Manufacture of miscellaneous food products

Major Group 21	Beverage industry
	211 Production of ethyl alcohol by fermentation, production of yeast and spirits
	212 Production of wine and other unmalted alcoholic beverages
	213 Brewing and malting
	214 Soft drinks and carbonated water industries
ex 30	Manufacture of rubber products, plastic materials, artificial and synthetic fibres and starch products
	304 Manufacture of starch products

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Directive 75/368/EEC (activities listed in Article 5(1))

ISIC Nomenclature

ex 04	Fishing
	043 Inland water fishing
ex 38	Manufacture of transport equipment
	381 Shipbuilding and repairing
	382 Manufacture of railroad equipment
	386 Manufacture of aircraft (including space equipment)
ex 71	Activities allied to transport and activities other than transport coming under the following groups:
	ex 711 Sleeping- and dining-car services; maintenance of railway stock in repair sheds; cleaning of carriages
	ex 712 Maintenance of stock for urban, suburban and interurban passenger transport
	ex 713 Maintenance of stock for other passenger land transport (such as motor cars, coaches, taxis)
	ex 714 Operation and maintenance of services in support of road transport (such as roads, tunnels and toll-bridges, goods depots, car parks, bus and tram depots)
	ex 716 Activities allied to inland water transport (such as operation and maintenance of waterways, ports and other installations for inland water transport; tug and piloting services in ports, setting of buoys, loading and unloading of vessels and other similar activities, such as salvaging of vessels, towing and the operation of boathouses)
73	Communication: postal services and telecommunications
ex 85	Personal services
	854 Laundries and laundry services, dry-cleaning and dyeing
	ex 856 Photographic studios: portrait and commercial photography, except journalistic photographers
	ex 859 Personal services not elsewhere classified (maintenance and cleaning of buildings or accommodation only)

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Directive 75/369/EEC (Article 6: where the activity is regarded as being of an industrial or small-craft nature)

ISIC Nomenclature

The following itinerant activities:

(a) the buying and selling of goods:

— by itinerant tradesmen, hawkers or pedlars (ex ISIC Group 612);

— in covered markets other than from permanently fixed installations and in open-air markets;

(b) activities covered by transitional measures already adopted that expressly exclude or do not mention the pursuit of such activities on an itinerant basis.

List II**Directive 82/470/EEC (Article 6(3))**

Groups 718 and 720 of the ISIC Nomenclature

The activities comprise in particular:

- organizing, offering for sale and selling, outright or on commission, single or collective items (transport, board, lodging, excursions, etc.) for a journey or stay, whatever the reasons for travelling (Article 2(B)(a)).

List III**Directive 82/489/EEC**

ex 855 Hairdressing, excluding services of chiropodists and professional beauticians' and hairdressers' training schools

List IV**Directive 82/470/EEC (Article 6(1))**

Groups 718 and 720 of the ISIC Nomenclature:

The activities comprise in particular:

- acting as an intermediary between contractors for various methods of transport and persons who dispatch or receive goods, and carrying out related activities:
 - (aa) by concluding contracts with transport contractors, on behalf of principals;
 - (bb) by choosing the method of transport, the firm and the route considered most profitable for the principal;
 - (cc) by arranging the technical aspects of the transport operation (e.g. packing required for transportation); by carrying out various operations incidental to transport (e.g. ensuring ice supplies for refrigerated wagons);
 - (dd) by completing the formalities connected with the transport such as the drafting of way bills; by assembling and dispersing shipments;
 - (ee) by coordinating the various stages of transportation, by ensuring transit, reshipment, transshipment and other termination operations;
 - (ff) by arranging both freight and carriers and means of transport for persons dispatching goods or receiving them;
- assessing transport costs and checking the detailed accounts;
- taking certain temporary or permanent measures in the name of and on behalf of a shipowner or sea transport carrier (with the port authorities, ship's chandlers, etc.)

(The activities listed under Article 2(A)(a), (b) and (d)).

List V**Directives (64/222/EEC) and (70/523/EEC)**

(a)

See Article 4(5)(a) of this Directive

Directive 64/222/EEC

(liberalisation Directive 64/224/EEC)

1. professional activities of an intermediary who is empowered and instructed by one or more persons to negotiate or enter into commercial transactions in the name of and on behalf of those persons;
2. professional activities of an intermediary who, while not being permanently so instructed, brings together persons wishing to contract directly with one another or arranges their commercial transactions or assists in the completion thereof;

3. professional activities of an intermediary who enters into commercial transactions in his own name on behalf of others;
4. professional activities of an intermediary who carries out wholesale selling by auction on behalf of others;
5. professional activities of an intermediary who goes from door to door seeking orders;
6. provision of services, by way of professional activities, by an intermediary in the employment of one or more commercial, industrial or small craft undertakings.

(b)

See Article 4(5)(b) of this Directive

Directive 70/523/EEC

Activities of self-employed persons in the wholesale coal trade and activities of intermediaries in the coal trade (ex Group 6112, ISIC Nomenclature)

List VI

Directives 68/364/EEC, 68/368/EEC, 75/368/EEC, 75/369/EEC, 82/470/EEC

1

Directive 68/364/EEC

(liberalisation Directive 68/363/EEC)

ISIC ex Group 612	Retail trade
Excluded activities:	
012	Letting-out for hire of farm machinery
640	Real estate, letting of property
713	Letting-out for hire of automobiles, carriages and horses
718	Letting-out for hire of railway carriages and wagons
839	Renting of machinery to commercial undertakings
841	Booking of cinema seats and renting of cinematograph films
842	Booking of theatre seats and renting of theatrical equipment
843	Letting-out for hire of boats, bicycles, coin-operated machines for games of skill or chance
853	Letting of furnished rooms
854	Laundered linen hire
859	Garment hire

2

Directive 68/368/EEC

(liberalisation Directive 68/367/EEC)

ISIC Nomenclature

ISIC ex Major Group 85:

1. Restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852)
2. Hotels, rooming houses, camps and other lodging places (ISIC Group 853)

Directive 75/368/EEC (Article 7)

All the activities listed in the Annex to Directive 75/368/EEC, except those referred to in Article 5 of that Directive (List I, No 3 of this Annex).

ISIC Nomenclature

- ex 62 Banks and other financial institutions
 - ex 620 Patent buying and licensing companies
- ex 71 Transport
 - ex 713 Road passenger transport, excluding transportation by means of motor vehicles
 - ex 719 Transportation by pipelines of liquid hydrocarbons and other liquid chemical products
- ex 82 Community services
 - 827 Libraries, museums, botanical and zoological gardens
- ex 84 Recreation services
 - 843 Recreation services not elsewhere classified:
 - sporting activities (sports grounds, organising sporting fixtures, etc.), except the activities of sports instructors
 - games (racing stables, areas for games, racecourses, etc.)
 - other recreational activities (circuses, amusement parks and other entertainments)
- ex 85 Personal services
 - ex 851 Domestic services
 - ex 855 Beauty parlours and services of manicurists, excluding services of chiropodists and professional beauticians' and hairdressers' training schools
 - ex 859 Personal services not elsewhere classified, except sports and paramedical masseurs and mountain guides, divided into the following groups
 - disinfecting and pest control
 - hiring of clothes and storage facilities
 - marriage bureaux and similar services
 - astrology, fortune-telling and the like
 - sanitary services and associated activities
 - undertaking and cemetery maintenance
 - couriers and interpreter-guides

Directive 75/369/EEC (Article 5)

The following itinerant activities:

- (a) the buying and selling of goods:
 - by itinerant tradesmen, hawkers or pedlars (ex ISIC Group 612);
 - in covered markets other than from permanently fixed installations and in open-air markets;
- (b) activities covered by transitional measures already adopted that expressly exclude or do not mention the pursuit of such activities on an itinerant basis.

Directive 82/470/EEC (Article 6(2))

(Activities listed in Article 2(A)(c) and (e), (B)(b), (C) and (D))

These activities comprise in particular:

- hiring railway cars or wagons for transporting persons or goods;
- acting as an intermediary in the sale, purchase or hiring of ships;

- arranging, negotiating and concluding contracts for the transport of emigrants;
- receiving all objects and goods deposited, on behalf of the depositor, whether under customs control or not, in warehouses, general stores, furniture depots, coldstores, silos, etc.
- supplying the depositor with a receipt for the object or goods deposited;
- providing pens, feed and sales rings for livestock being temporarily accommodated while awaiting sale or while in transit to or from the market;
- carrying out inspection or technical valuation of motor vehicles;
- measuring, weighing and gauging goods.

PART TWO

Activities other than those covered in Part One

1

Directives 63/261/EEC, 63/262/EEC, 65/1/EEC, 67/530/EEC, 67/531/EEC, 67/532/EEC, 68/192/EEC, 68/415/EEC and 71/18/EEC

ISIC Nomenclature

ex Major group 01 Agriculture

In particular:

- (a) general agriculture including the growing of field crops and viticulture; growing of fruits, nuts, seeds, vegetables, flowers, both in the open and under glass;
- (b) raising of livestock, poultry, rabbits, fur-bearing or other animals, bees; the production of meat, milk, wool, skins and fur, eggs, honey;
- (c) agricultural, animal husbandry and horticultural services on a fee or contract basis.

2

Directive 63/607/EEC

(Films)

3

Directive 64/223/EEC

ISIC Nomenclature

ex Group 611 Activities of self-employed persons in wholesale trade (with the exception of wholesale trade in medicinal and pharmaceutical products, in toxic products and pathogens, and in coal).

4

Directive 64/428/EEC

NICE Nomenclature

Major 11	Group	Mining and preparation of solid fuels
	111	Mining and preparation of coal
	112	Mining and preparation of lignite
Major 12		Mining of metalliferous ores
	121	Mining of iron ore
	122	Mining of non-ferrous metalliferous ores and related activities
Major ex 13	ex 130	Extraction of petroleum and natural gas (excluding prospecting and drilling)
Major 14	140	Extraction of building materials and fireclays
Major 19	190	Extraction of other minerals and of peat

5

*Directive 65/264/EEC**(cinema)*

6

*Directive 66/162/EEC**ISIC Nomenclature*

Division 5 Electricity, gas, steam, water and sanitary services

7

*Directive 67/43/EEC**ISIC Nomenclature*

ex Group 640 Real estate (excluding 6401)

Group 839 Business services not elsewhere classified (excluding journalism, activities of customs agents, advice on economic, financial, commercial, statistical, and labour and employment matters, debt collection)

8

*Directive 67/654/EEC**ISIC Nomenclature*

Major Group 02 Forestry and logging

021 Forestry

022 Logging

9

*Directives 68/369/EEC and 70/451/EEC**ISIC Nomenclature*

ex Group 841 Production, distribution and projection of films

10

*Directive 69/82/EEC**ISIC Nomenclature*

ex Major Group 13

ex 130 Exploration (prospecting and drilling) for petroleum and natural gas

11

*Directive 70/522/EEC**ISIC Nomenclature*

ex Group 6112 Coal

ANNEX B

REPEALED DIRECTIVES

PART ONE: LIBERALISATION DIRECTIVES

- 63/261/EEC: Council Directive of 2 April 1963 laying down detailed provisions for the attainment of freedom of establishment in agriculture in the territory of a Member State in respect of nationals of other countries of the Community who have been employed as paid agricultural workers in that Member State for a continuous period of two years
- 63/262/EEC: Council Directive of 2 April 1963 laying down detailed provisions for the attainment of freedom of establishment on agricultural holdings abandoned or left uncultivated for more than two years
- 63/607/EEC: Council Directive of 15 October 1963 implementing in respect of the film industry the provisions of the General Programme for the abolition of restrictions on freedom to provide services
- 64/223/EEC: Council Directive of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities in wholesale trade
- 64/224/EEC: Council Directive of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of intermediaries in commerce, industry and small craft industries
- 64/428/EEC: Council Directive of 7 July 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in mining and quarrying (ISIC Major Groups 11-19)
- 64/429/EEC: Council Directive of 7 July 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (industry and small craft industries)
- 65/1/EEC: Council Directive of 14 December 1964 laying down detailed provisions for the attainment of freedom to provide services in agriculture and horticulture
- 65/264/EEC: Second Council Directive of 13 May 1965 implementing in respect of the film industry the provisions of the General Programmes for the abolition of restrictions on freedom of establishment and freedom to provide services
- 66/162/EEC: Council Directive of 28 February 1966 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons engaging in the provision of electricity, gas, water and sanitary services (ISIC Division 5)
- 67/43/EEC: Council Directive of 12 January 1967 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons concerned with: 1. Matters of 'real estate' (excluding 6401) (ISIC Group ex 640); 2. The provision of certain 'business services not elsewhere classified' (ISIC Group 839)
- 67/530/EEC: Council Directive of 25 July 1967 concerning the freedom of nationals of a Member State established as farmers in another Member State to transfer from one holding to another
- 67/531/EEC: Council Directive of 25 July 1967 concerning the application of the laws of Member States relating to agricultural leases to farmers who are nationals of other Member States
- 67/532/EEC: Council Directive of 25 July 1967 concerning freedom of access to cooperatives for farmers who are nationals of one Member State and established in another Member State

- 67/654/EEC: Council Directive of 24 October 1967 laying down detailed provisions for the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in forestry and logging
- 68/192/EEC: Council Directive of 5 April 1968 concerning freedom of access to the various forms of credit for farmers who are nationals of one Member State and established in another Member State
- 68/363/EEC: Council Directive of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in retail trade (ISIC ex Group 612)
- 68/365/EEC: Council Directive of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the food manufacturing and beverage industries (ISIC Major Groups 20 and 21)
- 68/367/EEC: Council Directive of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the personal services sector (ISIC ex Major Group 85); 1. Restaurants, cafés, taverns and other drinking and eating places (ISIC Group 852); 2. Hotels, rooming houses, camps and other lodging places (ISIC Group 853)
- 68/369/EEC: Council Directive of 15 October 1968 concerning the attainment of freedom of establishment in respect of activities of self-employed persons in film distribution
- 68/415/EEC: Council Directive of 20 December 1968 concerning freedom of access to the various forms of aid for farmers who are nationals of one Member State and established in another Member State
- 69/82/EEC: Council Directive of 13 March 1969 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons engaging in exploration (prospecting and drilling) for petroleum and natural gas (ISIC ex Major Group 13)
- 70/451/EEC: Council Directive of 29 September 1970 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in film production
- 70/522/EEC: Council Directive of 30 November 1970 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the wholesale coal trade and activities of intermediaries in the coal trade (ISIC ex Group 6112)
- 71/18/EEC: Council Directive of 16 December 1970 laying down detailed provisions for the attainment of freedom of establishment in respect of self-employed persons providing agricultural and horticultural services

PART TWO: DIRECTIVES PROVIDING FOR TRANSITIONAL MEASURES

- 64/222/EEC: Council Directive of 25 February 1964 laying down detailed provisions concerning transitional measures in respect of activities in wholesale trade and activities of intermediaries in commerce, industry and small craft industries
- 64/427/EEC: Council Directive of 7 July 1964 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (Industry and small craft industries), as amended by Council Directive 69/77/EEC of 4 March 1969
- 68/364/EEC: Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in retail trade (ISIC ex Group 612)

- 68/366/EEC: Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the food manufacturing and beverage industries (ISIC Major Groups 20 and 21)
- 68/368/EEC: Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the personal services sector (ISIC ex Major Group 85); 1. Restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852); 2. Hotels, rooming houses, camps and other lodging places (ISIC Group 853)
- 70/523/EEC: Council Directive of 30 November 1970 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the wholesale coal trade and in respect of activities of intermediaries in the coal trade (ISIC ex group 6112)
- 75/368/EEC: Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of various activities (ex ISIC Division 01 to 85) and, in particular, transitional measures in respect of those activities
- 75/369/EEC: Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of itinerant activities and, in particular, transitional measures in respect of those activities
- 82/470/EEC: Council Directive of 29 June 1982 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in certain services incidental to transport and travel agencies (ISIC Group 718) and in storage and warehousing (ISIC Group 720)
- 82/489/EEC: Council Directive of 19 July 1982 laying down measures to facilitate the effective exercise of the right of establishment and freedom to provide services in hairdressing
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