

NOTIFICATION PURSUANT TO ARTICLE VII:4 OF THE
GENERAL AGREEMENT ON TRADE IN SERVICES

The following notification has been received from the government of Macau.

1. Members(s) notifying:

Government of Macau

2. Notification under Article(s):

GATS Article VII

3. Date of entry into force:

1 January 1995

4. Agency responsible for enforcement of the measure:

Cabinet of the Secretary for
Economic and Financial Affairs
Rue de S. Lourenço 28, 3
Macau

Telephone: + (853) 33 69 61
Telefax: + (853) 34 38 37

5. Description of the measure:

The following areas fall under Macau Public Administration supervision.

5.1 Health and welfare

In the field of health and welfare, only private health care providers, including members of liberal professions, are required to hold licenses.

The law governing licensing is Decree Law No. 84/90/M of 31 December.

The following professions are covered by this law:

- (a) doctor
- (b) traditional Chinese doctor
- (c) dentist
- (d) odontologist
- (e) nurse
- (f) therapist
- (g) masseur
- (h) acupuncturist
- (i) practitioner of traditional Chinese medicine

Licenses to engage in any of these professions are awarded by the Macau Government Health Department, the public body responsible for implementing the policies that the Macau Administration defines in the field Health, and for coordinating the activities of public and private health care providers (Decree Law No. 84/90/M of 31 December, Article 9, paragraph 1 and Decree Law No. 29/92/M of 8 June).

Professional aptitude to engage in the above-mentioned professions is proven by means of academic and/or specific professional qualifications.

Licences are awarded to those individuals whose qualifications are officially recognised as being genuine proof of professional capacity, either in Macau or in Portugal.

Licences are also awarded to those persons who hold academic and/or professional qualifications obtained outside Macau or Portugal, once these have been recognised in Macau as being genuine proof of a capacity to engage in the relevant profession.

The following is the general framework of measures adopted for recognising qualifications obtained outside Macau or Portugal:

- (a) None of the measures for issuing licences to engage in the relevant professions is based on agreements or conventions with other countries or territories concerning the recognition of training, experience, licences or certificates.
- (b) In the case of professions for which university level academic qualifications are deemed necessary, i.e. that of a doctor, the issuing of a licence to individuals who have obtained their qualifications outside Macau or Portugal is subject to prior recognition of their qualifications as being of tertiary level. This recognition is requested from the Bureau for Coordinating Higher Education (a government department) and is awarded on the basis of an opinion issued by a consultative committee consisting of representatives of various departments in the Public Administration and figures of recognised merit in the field of higher education.
- (c) Recognition of genuine training for the profession of practitioner of traditional Chinese medicine is provided by the Association of Practitioners of Traditional Chinese Medicine.
- (d) Recognition of other kinds of professional training is provided by Technical Committees within the Macau Government Health Department and the following are recognised:
 - (i) professional training received in establishments whose competence to award qualifications is recognised by an international organisation, i.e. WHO;

- (ii) training received in establishments in the People's Republic of China whose competence to teach such courses is recognised by the relevant government authorities;
- (iii) training received in establishments whose competence is not recognised under the terms of (a) and (b), whenever these institutions ensure, on the basis of the relevant course structure, a qualification which is the same as that awarded on completion of identical courses in Macau or in Portugal, and so long as interested parties pass an examination for this purpose, to be requested on their own initiative.

The system for recognising training required for engaging in professions providing health care reflects Macau's status as a Chinese territory under Portuguese administration, in terms of international law.

5.2 Economic and financial affairs

In the field of the economy and finances, only accountants and auditors are required to hold licences.

Decree Law No. 17/78/M contains the legislation governing conditions of entry and practice in the above-mentioned professions, although a draft law intended to replace the existing law is currently under discussion.

As a general rule, only auditors and accountants registered in the Finance Department are allowed to sign or authenticate any accounting documents, namely statements of income.

Only graduates in accountancy, finance, economics, management or business management with degrees awarded by colleges or university faculties may register as auditors.

Registration as an auditor or accountant depends on a decision taken by a Committee for the Registration of Accountants and Auditors (CRAA) which has the powers required for issuing recognition.

Decree Law No. 17/78/M allows the CRAA to take decisions permitting the registration of accountants and auditors who are members of foreign professional associations.

As a general criterion for these cases, the CRAA has thus allowed the registration of members of the professional associations recognised by the Hong Kong Society of Accountants.

In this case, the CRAA requires recognition of the academic qualifications in the form of a certificate issued by the relevant body of the Public Administration in charge of recognition.

Under the terms of Article 7, paragraph 1 of the same law, persons registered as Accounting Clerks in Portugal's Tax Department are also allowed to register as accountants.

Finally, it should be noted that no agreements or conventions on this subject have been signed by Macau, although there are informal contacts with the Hong Kong Society of Accountants.

5.3 Legal professions

In Macau, lawyers, private notaries and solicitors are regarded as members of liberal professions practising in the field of the Justice Department. A licence must be held in order to engage in these professions and professional practice must conform to certain specific requirements.

(a) Lawyers

Regulation of access and award of the professional title of lawyer and trainee lawyer is controlled by the Macau Lawyers' Association. The MLA is a collective public body and is not subject to guidelines issued by any other collective public body.

The legislation governing the profession of lawyer in Macau is as follows:

- Articles of Association of the Macau Lawyers' Association (*Official Gazette* 17/89)
- Decree Law No. 31/91/M of 6 May
- Decree Law No. 26/92/M of 4 May
- Regulations governing entry to the profession of lawyer (*Official Gazette* 48/92)
- Order No. 121/GM/92 of 31 December
- Decree Law No. 41/94/M of 1 August
- Administrative Ruling No. 168/94/M of 1 August
- Decree Law No. 42/95/M of 21 August
- Order No. 53/GM/95 of 7 September

Only lawyers and trainee lawyers currently registered with the MLA are entitled to engage in the activities inherent to the profession, namely, carry out a judicial mandate or provide legal advice within the scope of a remunerated liberal profession, throughout Macau and in any jurisdiction, court, authority or public or private body.

University law lecturers who only give written legal opinions are not regarded as practising law and are thus not required to register with the MLA.

Similarly, legal advice provided by graduates in law who are employed as civil servants does not require registration with the MLA.

The following are the conditions required for registration as a lawyer:

- A degree in law from the University of Macau or any other law degree recognised in the territory
- Attendance of the lawyers training course

Under the terms of the regulations governing access to the profession of lawyer, graduates in law from universities other than Macau should attend an adaptation course on Macau's legal system. The MLA is responsible for overseeing traineeships and the prior adaptation course.

The regulations governing entry into the profession of lawyer list the requirements for exemption from the traineeship and the prior adaptation course.

Registration as a trainee lawyer may be requested by graduates in law from the University of Macau and persons with law degrees recognised in the Territory, following attendance of the prior adaptation course, or exemption from attendance of the same under the terms of the regulations governing entry into the profession of lawyer.

The MLA may reduce the length of the prior adaptation course for graduates in law from universities in countries with similar legal systems to Macau.

(b) Private notaries

Private notaries are special officers providing notary services, appointed by Governor's Order.

Qualifications, licensing and the practice of private notaries are regulated by the following legislation:

- Decree Law No. 80/90/M of 31 December
- Decree Law No. 81/90/M of 31 December
- Decree Law No. 9/91/M of 31 January
- Administrative Ruling No. 40/91/M of 25 February
- Decree Law No. 58/92/M of 24 August

Former notaries, registrars, magistrates and Public Prosecutors who have held these positions in Macau and lawyers registered with the MLA may be appointed as private notaries. The latter may only be appointed after attending a training course under the terms defined in Decree Law No. 9/91/M of 31 January.

Private notaries have powers to engage in all notary acts, except the following:

- public wills (wills lodged in registers at public notaries)
- approval of closed wills (wills retained by testator or proxy)
- opening closed wills
- notarial qualifications and justifications
- pre-nuptial deeds
- repudiation of inheritance involving immovables
- matters involving minors and the disabled, even if they are duly represented
- protests

Private notaries are sworn into office and take their professional oath in the presence of the Director the Justice Department. They are bound by the same obligations as civil servants except for those concerning obedience and assiduity. They must obey circulars and general decisions emanating from the offices of the Registration and Notary Department.

(c) Solicitors

Qualifications and licensing to engage in the profession of solicitor is regulated by Decree Law No. 35777 of 1 August 1946 (*Official Gazette* No. 51/46). This law has been partially revoked, however, by the Law of Macau's Judicial Organisation, No. 112/91 of 29 August.

Examinations for entry into the profession of solicitor are held in the Court of First Instance in the presence of a panel consisting of a judge, a representative from the Office of Public Prosecutions and a lawyer.

The examinations consist of a written test and an oral exam which are essentially practical. Candidates awarded licences are issued with a solicitor's charter.

Solicitors' powers to engage in legal acts is defined in various pieces of legislation, namely Article 32 of the Code of Civil Procedure which allows solicitors to submit requests in court so long as these do not raise any legal issues, or Article 34 of the same law which allows solicitors legal mandate in cases which do not necessarily require the services of a lawyer.

6. Members specifically affected, if any:

None

7. Text available from:

Enquiry point