

# Textual Analysis of the 158 major EC Laws 'Delegating Powers in the European Community', *BJPoLS 2004*

Number 358R003

Title

Règlement n° 3 concernant la sécurité sociale des travailleurs migrants

Description: Regime of social security for migrant workers

Major provisions M = 159

Provisions delegating authority D = 34

Total number of constraints C = 3

Provisions delegating authority to M/S Dg = 27

- 1) M/S may amend annex B – art. 3.2
- 2) M/S may amend annex D – art. 6.3
- 3) M/S may agree conventions following the principles of this regulation – art. 7.1
- 4) M/S may amend annex E – art. 10.3
- 5) National institutions may invoke provisions for suspension or reduction of benefits even though the benefit was acquired under another M/S (prevention of benefits overlapping) – art. 11.2
- 6) M/S may agree together exceptions to art. 12-4 - art. 15
- 7) National administrations to give authorization to transfer social security benefits to another Member States (sickness and maternity) – art. 19.2
- 8) National administrations to authorize important cases (sickness and maternity) – art. 19.5
- 9) National administrations to authorize important cases, referred to art. 19.5 (sickness and maternity) – art. 22.4
- 10) National administrations to authorize important cases, referred to art. 19.5 (sickness and maternity) – art. 22.6
- 11) M/S may decide for no reimbursement to take place (sickness and maternity) – art. 23.5
- 12) M/S may amend annex F – art. 24.2
- 13) National administrations to determine entitlements, application of chapter 3, art. 28.1.a (invalidity) – art. 26.1
- 14) National administrations to determine entitlements (pensions) – art. 28.1a
- 15) National administrations to give authorization to transfer social security benefits to another Member States (work-related accidents and sickness) – art. 29.1
- 16) National administrations to give authorization for important cases, referred to art. 19.5 (work-related accidents and sickness) – art. 29.2
- 17) M/S to set the rules to services in kind (work-related accidents and sickness) – art. 29.7
- 18) National administrations to give authorization to keep entitlements (unemployment) – art. 35.2
- 19) M/S may annul the limitation of art. 36.1 (unemployment) - art. 36.3
- 20) M/S may annul the limitation of art. 37.3 (unemployment) - art. 37.5
- 21) M/S may decide for no reimbursement to take place as referred to art. 23.5 (unemployment) – art. 38
- 22) M/S may agree reimbursement rules between themselves – art. 43d
- 23) M/S may agree payment of certain fees – art. 45.2
- 24) M/S to agree between themselves rules for financial transfers – art. 48.2
- 25) M/S to agree between themselves rules for the contributions – art. 51
- 26) M/S to agree between themselves rules for claiming rights – art. 52
- 27) French and Italian authorities to regulate the issue of Italian workers in France – art. 53.7

Total number of constraints to M/S Cg = 2

- 1) Rule-making requirements : detailed criteria when workers and relatives are entitled to benefits – art. 18, 22, 23.3, 26.4, 26.5, 28.1, 28.3, 30.2, 32, 33, 34, 35.1, 35.2, 37, 42
- 2) Executive Action Required 1: Administrative Commission to give prior assent ('avis conforme') to Member States amendments of Annexes D and E – art. 6.3, 10.3

Not included: art. 49 requires M/S to refer matter of interpretation to the administrative commission before referring it to the Court of Justice, this cannot be considered a constraint (i.e. appeals procedure) as it does not give any group a standing nor does it expedite the appeal process, on the contrary, it prolongs the process – art. 49

Provisions delegating authority to Commission Dc = 0

Total number of constraints to Commission Cc = 0

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**Number** 358R004

**Title**

**Règlement n° 4 fixant les modalités d'application et complétant les dispositions du règlement n° 3 concernant la sécurité sociale des travailleurs migrants**

**Description: Regime of social security for migrant workers, implementing provisions**

**Major provisions** M = 236

**Provisions delegating authority** D = 56

**Total number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 38

- 1) Competent authority may designate liaison bodies – art. 3.1
- 2) M/S may amend provisions included in annex 6 – art. 5.2
- 3) Competent institutions to give authorization for substantial benefits in kind (sickness and maternity, residence outside competent M/S), referred to art. 19.5 of Reg. 3/58 – art. 15.2
- 4) Competent institutions to decide about applications for entitlement (sickness and maternity, stay outside competent M/S) – art. 17.4
- 5) Competent institutions to give authorization for substantial benefits in kind (sickness and maternity, stay outside competent M/S), referred to art. 19.5 of Reg. 3/58 – art. 19.3
- 6) Competent institution to give authorization to keep entitlements after transfer of residence (sickness and maternity) – art. 21.1
- 7) Competent institutions to give authorization for substantial benefits in kind (sickness and maternity, transfer of residence), reference to article 19.3 – art. 21.2
- 8) M/S may agree to use the procedure alternative to that of art. 22.2 and 22.2b (sickness and maternity) – art. 22.3
- 9) Provision on the co-operation in fighting against the unduly assignment of benefits (sickness and maternity), though a general call it delegates the control of infringements to M/S – art. 22.6
- 10) National administrations to verify if the person is entitled to the benefits (sickness and maternity) – art. 24.2
- 11) Competent institutions to give authorization for substantial benefits in kind (sickness and maternity, pensioners transfer of residence), reference to article 19.3 – art. 24.3
- 12) Competent institutions to give authorization for substantial benefits in kind (sickness and maternity, pensioners, stay outside competent M/S), reference to article 19.3 – art. 26.2
- 13) Extension to family member of provisions of article 26 (sickness and maternity, pensioners family members, stay outside competent M/S) – art. 27
- 14) National administration to choose between methods of benefits calculation (invalidity and pensions) – art. 29.2 first sentence (New Major Provision)
- 15) Competent institutions to carry out administrative and medical checks (invalidity and pensions) – art. 31.2
- 16) Specialized national administrations to conduct their own investigation (invalidity and pensions) – art. 32
- 17) National administrations to determine the type of benefits entitled to the applicant (invalidity and pensions) – art. 34.2
- 18) National administrations to determine the remaining benefits entitled to the applicant in case of art. 28.3 of Reg. 3/58 (invalidity and pensions) – art. 35.1
- 19) Liaison institution to carry out administrative and medical controls (invalidity and pensions) – art. 38
- 20) National administrations may adopt a different payment procedure (invalidity and pensions) – art. 41.2
- 21) National administration may suspend payments (invalidity and pensions) – art. 44.4
- 22) Competent institutions to decide applications for entitlement and authorization for substantial benefits in kind (work-related accidents and sickness, stay outside competent M/S), as referred in art. 17.4, 19.3 – art. 48a
- 23) Competent institution to give authorization for entitlements and substantial benefits in kind, (work-related accidents and sickness, transfer of residence), as referred in art. 21.1, 21.2 – art. 48b (New Major Provision)
- 24) Competent institution to decide occupational nature of accident (work-related accidents and sickness) – art. 50.2
- 25) Institutions of residence to carry out, on request, administrative and medical checks (work-related accidents and sickness) – art. 57.1
- 26) Extension of powers concerning payments of art. 41.2 and 44.4 (work-related accidents and sickness) – art. 58
- 27) National administrations to agree rules of payments (death) – art. 61
- 28) Competent institution to give authorization to keep entitlements after transfer of residence (unemployment) – art. 66.1
- 29) Extension of powers concerning payments of art. 41.2 and 44.4 (family benefits) – art. 71.4
- 30) M/S may agree between themselves criteria to evaluate costs (sickness and maternity), workers under art. 17.3, 19.1-2, 19.7, 22.6 of Reg. 3/58 – art. 73.4
- 31) M/S may agree between themselves criteria to evaluate costs (family benefits), workers under art. 20.1 of Reg. 3/58 – art. 74.5
- 32) Extension of powers under art. 73.4 to workers under art. 22.5 of Reg. 3/58 – art. 74.6 (new Major Provision)
- 33) Extension of powers under art. 74.5 (sickness benefits), workers under art. 22.2 of Reg. 3/58 – art. 75.3
- 34) Extension of powers under 73.4 (work-related accidents and sickness), art. 29.6 Reg. 3/58 – art. 76 (New Major Provision)

35) M/S may agree between themselves to increase cost to account for administrative charges – art. 77

36) M/S may agree between themselves other rules for reimbursement – art. 79.4

37) M/S may agree between themselves other rules for administrative charges – art. 82

38) National institution may ask another M/S institution to retain exceeding payments – art. 84.1

Not included: competent institutions reserve the right to carry out their own medical controls – art. 31.2, 57.4;

General call for M/S to adopt financial provisions (general, there are more specific provision in the text) – art. 80

**Total number of constraints to M/S**

**Cg = 2**

1) Rule-making requirements: detailed criteria for computing the pro-rata contributions – art. 13, 29, 70.3, 74.2, 75.2  
detailed criteria to determine the procedures to obtain and the types of benefits entitled to applicants (see references to Reg. 3/58)– art. 7, 8, 9, 12, 20, 22.2, 22.3, 25.2, 31, 34.2, 35.1, 69.3

detailed information to include in the control carried out by national administrations – art. 39

rules for reimbursement – art. 43, 45, 79.5

2) Executive action required 1: Rules adopted by M/S under art. 23.5 of Reg. 3/58, art. 73.4, 74.5-6, 75.3 needs assent of the Administrative Commission to amend annex 6 – art. 81.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Total number of constraints to Commission**

**Cc = 0**

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**Number** 360R0011

**Title**

**Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty establishing the European Economic Community**

**Description: Abolition of discrimination in transport rates and conditions**

**Major provisions** M = 51

**Provisions delegating authority** D = 15

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 7

- 1) M/S may refuse security-related information – art. 11.4
- 2) M/S may request information on rate conditions from forwarding and other agents – art. 13.1
- 3) Extension of power under art. 13.1 to providers of ancillary services – art. 13.2
- 4) M/S may refuse security-related information (forwarding agents and ancillary services), reference to art. 11.4 – art. 13.3
- 5) M/S to check compliance of art. 5.2, 6, 11 and 13 – art. 14.1
- 6) M/S to adopt measures to support and assist Commission’s representatives – art. 14.2 (New Major Provision)
- 7) M/S to lay down penalties – art. 16

**Number of constraints to M/S** Cg = 1

- 1) Consultation: Consultation of the Commission – art. 14.1-2; Consult the Commission before setting the penalties – art. 16

**Provisions delegating authority to Commission** Dc = 10

- 1) Commission may, by regulation, postpone entry into force for some classes of transport – art. 7.2
- 2) Commission may request information on tariffs and agreements from undertakings and M/S beyond that in art. 5 (similar to a power of investigation)– art. 11.1
- 3) Commission may request from undertakings proof that their conditions are not discriminating – art. 12.1
- 4) Commission may request information on rate conditions from forwarding and other agents (similar to a power of investigation, extension of art. 11.1) – art. 13.1
- 5) Extension of power under art. 13.1 to providers of ancillary services – art. 13.2
- 6) Commission may send officials to check and supervise compliance – art. 14.2
- 7) Commission may, by decision, impose penalties if undertakings do not supply information or supply false information – art. 17.1
- 8) Commission may repeat decision to impose penalties if undertakings do not supply information or supply false information – art. 17.1 last sentence (New Major Provision)
- 9) Commission may, by decision, impose penalties if there is discrimination – art. 18.1
- 10) Commission may, by decision, impose penalties if discrimination continues – art. 18.2

Not included: Simple notification of information to Commission – art. 5.1; Setting time limits for the supply of information – art. 11.2

**Number of constraints to Commission** Cc = 5

- 1) Exemptions – art. 1, 8, 9
- 2) Consultation: Commission to consult Council before issuing regulations under art. 7.2; M/S consultation - 18.1 (see Treaty), 18.2 (see Treaty), 18.3
- 3) Rule-making requirements: Limits on penalties – art. 17.1, 18.1, 18.2
- 4) Time Limit: Commission can issue regulation under art. 7.2 only before 1/7/61 – art. 7.2
- 5) Hearing of interested parties: Commission to hear explanations from undertakings before action – art. 25.1

Not included: Notification without further requirements art. 11.3, 14.2, 20; M/S have rights to submit an application requesting investigation (powers of and constraints on the Commission are defined by the Treaty in this case) – art. 24; also not included: these references are not appeals procedure constraint as they do not go beyond Treaty art. 173; Specification of ECJ sole jurisdiction – art. 25.2; Commission cannot proceed with penalty enforcement until the period allowed for appeal has expired - art. 25.2

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**Number** 360L0921

**Title**

**First Directive for the implementation of Article 67 of the Treaty**

**Description: Liberalisation of movement of some types of capital**

**Major provisions** M = 18

**Provisions delegating authority** D = 5

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 4

- 1) M/S to ensure that transfers are made at rates similar to those ruling for payments relating to current transactions – art. 2.2
- 2) M/S may confine application of art. 2.1 (Annex 1, List B) to some financial institutions (temporary measure, but no time limit specified) – art. 2.3
- 3) M/S may maintain or reintroduce exchange restrictions (Annex 1, List C) if they support economic policy objectives – art. 3.2
- 4) M/S to take measures of simplification – art. 5.2

Note: Article 3.2 asserts that M/S may reintroduce exchange restrictions, this is an extension of a power that would have otherwise been relinquished as a result of article 3.1.

Not included: Article 7 asks the M/S to inform the Commission of measures that go beyond obligations of directive and that amend List D of Annex 1 (not included because it is a requirement of information, it is not delegation but a sign that M/S retains their powers in these areas); General call for M/S to adopt the measure in pursuance of the directive – art. 7b; Article 5.1 asserts that M/S can verify transactions and take measures against infringements, this is a ‘no prejudice provision’, this power would have not relinquished as a result of this Directive.

**Number of constraints to M/S** Cg = 2

- 1) Consultation: Consult Commission when M/S maintains or reintroduces restrictions (Annex 1, List B) – art. 3.2
- 2) Rule-making requirements : Detailed list in the Annexes of the type of capital movements where M/S can act – Annexes I and II

**Provisions delegating authority to Commission** Dc = 1

- 1) Commission to initiate art. 169 infringement procedure (List A, Annex I) – art. 1.2

Not included: Commission to examine and issue recommendations – art. 2.2, 2.3, 3.2, 3.3; Commission to receive information – art. 7; Commission to receive a report from the monetary committee – art. 4

**Number of constraints** Cc = 1

- 1) Rule-making requirements : Detailed list A of Annex I of the capital movements where the Commission can act (It can also be considered an exemption, but it is only one type of constraint)

Not included: Consultation of the Monetary committee because there is no delegation of powers – art. 2.2, 2.3, 3.2

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**Number** 361R0015

**Title**

**Règlement n° 15 relatif aux premières mesures pour la réalisation de la libre circulation des travailleurs à l'intérieur de la Communauté**

**Description: First measures for free movement of workers**

**Major provisions** M = 91

**Provisions delegating authority** D = 12

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 7

- 1) M/S may oppose the employment of domestic nationals in other M/S – art. 5.2
- 2) M/S to favor the admission of all the members of the family – art. 11.2
- 3) M/S to designate employment agencies to carry out activities of art. 16.1 – art. 16.2
- 4) M/S regional services may carry out between themselves the matching of labor demand and supply, delegation by the central services – art. 19a
- 5) Executive institutions of bilateral agreements may carry out the matching of labor demand and supply, especially for some important sectors and regions – art. 20
- 6) M/S to organize visits and advance programmes of professional specialization – art. 26
- 7) Luxembourg may derogate – art. 49.2

Note: article 20 refer to institutions appointed by M/S and under their control, hence it is delegation to M/S.

Not included: possibility of cooperation between specialized and professional official associations – art. 19c

**Number of constraints to M/S** Cg = 4

- 1) Rule-making requirements: detailed criteria on foreign workers availability and employment - art. 1.2 , 2.1, 6, 7
- 2) Reporting Requirements:

National services to report results and problems to the European Coordination Bureau – art. 20

- 3) Executive Action Required 1: Luxembourg may derogate upon authorization from the Commission – art. 49.2

- 4) Exemptions: types of contracts, employment and workers excluded – art. 2.3, 42.1, 42.3, 45a

Not included: article 19 asserts that regional services may carry out activities only upon the authority of central services, this could be considered as a constraint for local authorities (i.e. Executive Action Required 1), however it is not a constraint from a M/S perspective.

**Provisions delegating authority to Commission** Dc = 5

- 1) Establishment of a European Coordination Bureau inside the Commission – art. 22
- 2) European Coordination Bureau to carry out the matching of labor demand and supply – art. 23c
- 3) Commission to set the rules and conditions for the visits and *stages of fonctionnaires* – art. 26
- 4) Commission to set rules to apply regulation to artists and musicians – art. 46.2
- 5) Commission to authorize derogation for Luxembourg – art. 49.2

Not included: The Commission to devise a uniform method for the exchange of information – art. 18.2; Functions of the Coordination Bureau – art. 23; Design of standard documents by the Bureau – art. 25.1; General call upon the Commission to adopt implementing measures – art. 49.1

**Number of constraints to Commission** Cc = 5

- 1) Rule-making requirements: same constraints to those of Member States
- 2) Exemptions: types of contracts, employment and workers excluded – art. 2.3, 42.1, 42.3, 45a
- 3) Reporting Requirements: the European Coordination Bureau to produce an annual report of the labor market activities – art. 25.4
- 4) Consultation Requirements: The Commission to consult the Technical Committee when setting the rules and conditions for the visits and *stages of fonctionnaires* – art. 26; Commission needs proposal from the Technical Committee to set rules for artists and musicians – art. 46.2
- 5) Executive Action Required 1: European Co-ordination Office needs agreement of specialist services before carrying out vacancy clearance – 23c

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**Number** 362R0017

**Title**

**Regulation No 17: First Regulation implementing Articles 85 and 86 of the Treaty**

**Description: Rules for the implementation of competition policy**

**Major provisions** M = 67

**Provisions delegating authority** D = 25

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 2

1) National authorities remain competent to apply Treaty art. 81.5 and 86 as long as Commission has not used its powers – art. 9.3

2) M/S to adopt measures to give assistance to Commission’s officials – art. 14.6

Note: Article 9.3 asserts that national authorities remain competent to apply Treaty art. 81.5 and 86, it extends the powers of national authorities that they would have otherwise relinquished as a result of applying article 9.

Not included: M/S authorities to exercise their powers upon Commission’s request – art. 13.1 (this is an obligation and it does not delegate power beyond Treaty art. 88)

**Number of constraints to M/S** Cg = 2

1) Time Limit: Powers of national authorities under art. 9.3 expire with Commission’s action – art. 9.3

2) Consultation: Commission Consultation prior to M/S adoption of measures to assist its officials – art. 14.6

**Provisions delegating authority to Commission** Dc = 22

1) Commission may decide to give negative clearance – art. 2

2) Commission may decide to require termination of infringements – art. 3.1

3) Commission may take a decision pursuant to Treaty art. 85.3 – art 6.1

4) Commission to fix, by decision, the time of the prohibition under Treaty art. 85.1 – art. 7.1

5) Commission may renew a Treaty art. 85.3 decision, on application – art. 8.2

6) Commission may revoke, amend decisions or to prohibit acts – art. 8.3

7) Commission may obtain all necessary information from Governments and authorities (a supporting power of investigation) – art. 11.1

8) Commission may require information by decision if there is no co-operation from undertakings– art. 11.5

9) Commission may decide to conduct a general inquiry – art. 12.1

10) Expansion of art. 12.1 powers – art. 12.2

11) Expansion of art. 12.1 powers – art. 12.3

12) Extension of powers to request information and investigating powers to general inquiries, reference to art. 11.1, 11.5, 13.1, 14.1 and 14.3 – art. 12.4

13) Commission can request M/S authorities to undertake investigations – art. 13.1

14) Commission may undertake all necessary investigations – art. 14.1

15) Commission can use the power of decision to conduct investigation – art. 14.3

16) Commission may, by decision, impose penalties if incorrect or misleading information is supplied – art. 15.1

17) Commission may, by decision, impose penalties in case of infringement of art. 8.1 and Treaty art. 85.1, 86 – art. 15.2

18) Commission may, by decision, impose periodic penalties – art. 16.1

19) Extension of Commission’s power to amend the imposition of periodic penalties – art. 16.2

20) Extension of Commission’s decision to revoke, amend decisions or to prohibit acts to decisions of national authorities – art. 23.1

21) Extension of Commission’s power to renew a Treaty art. 85.3 decision to decision of national authorities – art. 23.2

22) Commission’s power to adopt implementing provisions (more extensive than a simple call for execution, similar to a power to decide procedures) – art. 24

Not included: Commission’s recommendation – art. 3.3

**Number of constraints to Commission** Cc = 4

1) Exemption – type of agreement that must not be notified – art. 4.2, 5.2; Exemption from art. 6.1 powers – 6.2

2) Consultation – Prior consultation of the Advisory Committee on Restrictive Practices and Monopolies – art. 10.3, 12.4, 15.3, 16.3; Prior consultation of Member States authorities for Commission’s decisions – art. 14.4

3) Rule-making Requirements: Limits on penalties - art 15.1, 15.2, 15.5, 16.1

4) Public hearing of interested parties Hearings of undertakings and other natural or legal persons – art. 19.1-3

Not included: Art. 8.3 specifies criteria to take decision but are relatively general; these reference to the ECJ are not appeals procedure constraint as they do not go beyond Treaty art. 173: Specification that the ECJ review Commission’s decisions – art. 9.1; Rights of undertakings to ECJ review of Commission’s decisions – art. 11.5, 14.3 ECJ can cancel, reduce or increase Commission’s penalties – art. 17

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**Number** 362R0019

**Title**

**Règlement n° 19 portant établissement graduel d'une organisation commune des marchés dans le secteur des céréales**

**Description: Establishment of a common market organisation for cereals**

**Major provisions** M = 82

**Provisions delegating authority** D = 48

**Number of constraints** C = 9

**Provisions delegating authority to M/S** Dg = 23

- 1) M/S to set threshold prices (4 products of art. 1a) – art. 4
- 2) M/S to set indicative base prices (4 products of art. 1a) – art. 5.1
- 3) M/S to set derived indicative prices (4 products of art. 1a) – art. 5.2
- 4) M/S to adopt a list in indicative prices with stock and interest charges – art. 5.3
- 5) M/S to set intervention prices – art. 7.1
- 6) Extension of powers to set intervention prices – art. 7.2
- 7) National intervention organizations may intervene in the market with some discretion – art. 7.3
- 8) M/S to set threshold prices (remaining products of art. 1a) – art. 8.1
- 9) M/S to set threshold prices (products of art. 1c) – art. 8.2
- 10) M/S to revise threshold prices in case of disruption, reference art. 4 and 8 – art. 9.2 (new Major Provision)
- 11) M/S to set threshold prices (*blé dur*, art. 1b) – art. 11.4
- 12) M/S to set indicative prices (*blé dur*, art. 1b) – art. 11.5
- 13) M/S may adopt diminishing aid for *blé dur* producers – art. 11.6
- 14) M/S to carry out control for *blé dur* - art. 11.9 (new Major Provision)
- 15) M/S to compute intra-Community and import levies – art. 15.1
- 16) M/S to modify intra-Community and import levies – art. 15.2 (New Major Provision)
- 17) M/S to issue an import/export certificate – art. 16.1
- 18) M/S may carry out import/export balancing of levies – art. 19.2a (New Major Provision)
- 19) M/S may take safeguard measures during transitional period – art. 22.1
- 20) M/S may suspend import certificate in case of disruptions – art. 22.5
- 21) M/S may prolong implementation – art. 23.2 (new Major Provision)
- 22) M/S may defer the application of articles 5.3 and 7 – art. 23.3
- 23) M/S may grant aid for internal consumption – art. 23.4

Note (*this applies to all acts on the common organisation of agricultural and fishery markets*):

Article 92.1 of the Treaty of Rome asserts that 'Except where otherwise provided in this Treaty, any aid, granted by a Member State ... which distort or threatens to distort competition ... [shall] be deemed incompatible with the Common Market'. So the M/S power to grant aid should be considered relinquished.

However, article 42 of the Treaty of Rome state that 'the provisions of the Chapter related to the rules of competition [i.e. art. 85-94] shall apply to the production of and trade in agricultural products only to the extent determined by the Council within the framework of the provisions and in accordance with the procedure laid down in Article 43, paragraph 2 and 3'. Agriculture is hence exempted from the rule of the Treaty on state aids.

When a provision, such as article 19.1 in this regulation, extends Treaty articles 92-4 to a specific agricultural sector it cannot be considered delegation to M/S because 1) the M/S do not maintain powers *that they would have otherwise relinquished* (since these aid to agriculture has been exempted in the Treaty), 2) nor M/S maintain measures that would otherwise expire.

Not included: Last sentence of art. 11.5 is not delegation because art. 7 include all products with intervention prices; General call for M/S implementation – art. 23.1

**Number of constraints to M/S** Cg = 5

- 1) Rule-making requirements: detailed rules for setting intra-Community levies – art. 2.1, 11.1, 14.1

Detailed rules for import levies - art. 10, 11.2, 17.2

Detailed rules setting prices (threshold prices, indicative base prices, high and low price limits, intervention prices) - art. 4, 5, 6.2-3, 7, 11.4, 11.5

Detailed criteria for reimbursements of intra-Community levies – art. 19.2

Rules for taking transitional safeguard measures – art. 22.2

- 2) Time Limit: M/S can adopt diminishing aid for *blé dur* producers only for three years– art. 11.6

M/S can take safeguard measures during transitional period – art. 22.1

Period to prolong implementation is maximum two years – art. 23.2

Extension to 30/6/65 of the right to prolong implementation – art. 23.3

- 3) Executive Action Possible: Commission to decide within four days if a M/S safeguard measure has to be maintained, modified or repealed and the type of measures for the other Member States to adopt – art. 22.2

- 4) Legislative action required: Council has to agree derogation by unanimity – art. 23.2

- 5) Spending limit: Aid for *blé dur* producers has to be diminishing– art. 11.6; Limits for M/S granting aid for internal consumption (diminishing and not above aid of previous years) – art. 23.4



**Provisions delegating authority to Commission****Dc = 26**

- 1) Commission to set prices *franco frontière*, following procedure of art. 26 – art. 3
- 2) Commission to set threshold prices (if not adopted by Member States), following procedure of art. 26 – art. 4
- 3) Commission to adopt quantities and rules for the selling of *blé* and *seigle* for non-human consumption, following the procedure of art. 26 – art. 7.4
- 4) Commission to revise threshold prices (products of art. 1c), following procedure of art. 26 – art. 8.2
- 5) Commission to set the *montants forfaitaires*, following the procedure of art. 26 – art. 9.1
- 6) Commission to revise *montants forfaitaires* in case of disruptions, following the procedure of art. 26 – art. 9.2
- 7) Commission to set *CAF* prices, following procedure of art. 26 (products a and c, import levies) – art. 10.3
- 8) Commission to set prices replacing *CAF* prices, following procedure of art. 26 (products a and c, import levies) – art. 10.4
- 9) Commission to set the difference between threshold price and prices *franco frontière*, following procedure of art. 26 (*blé dur*, intra-Community levies) – art. 11.1
- 10) Commission to set *CAF* prices, following procedure of art. 26 (*blé dur*, import levies), referred to art. 10.3 – art. 11.2
- 11) Commission to set prices replacing *CAF* prices, following procedure of art. 26 (*blé dur*, import levies), referred to art. 10.4 – art. 11.2 (New Major Provision)
- 12) Commission to specify the varieties that follow under the denomination of *blé dur*, following procedure of art. 26 – art. 11.8
- 13) Commission to set the rules governing control of *blé dur* provisions, following procedure of art. 26 - art. 11.9
- 14) Commission to set the standard of quality and the coefficients of equivalence, following procedure of art. 26 – art. 12
- 15) Commission to set an additional intra-Community levy on products d, following procedure of art. 26 – art. 14.2
- 16) Commission to set the rules to modify levies and for implementation, following procedure art. 26 – art. 15.2
- 17) Commission to set rules to avoid arbitrage, following procedure art. 26 – art. 15.4
- 18) Commission to set rules governing import certificates, following procedures of art. 26 (especially products c and d) – art. 16.3
- 19) Commission to adopt the scale of premiums – art. 17.2
- 20) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to cereals, reference to Treaty art. 93.2 – art. 19.1
- 21) Extension of Commission's powers to new or modification of M/S aids to cereals, reference to Treaty art. 93.3 – art. 19.1 (new Major Provision)
- 22) Commission to set rules governing intra-Member States reimbursements of intra-Community levies, following procedure of art. 26 (products a, b and c) – art. 19.2b
- 23) Commission to set rules governing Member States reimbursements related to import levies, following procedure of art. 26 (products a, b and c) – art. 20.2
- 24) Commission to decide if a Member State measure has to be maintained, modified or repealed and the type of measures for the other Member States to adopt – art. 22.2
- 25) Commission to adopt directives on the respect of conditions for derogation – art. 23.2
- 26) Commission to adopt transitional measures, following procedure of art. 26 – art. 29

Note (*this applies to all acts on the common organisation of agricultural and fishery markets*):

As we have seen above, according to Treaty article 42, the powers conferred upon the Commission by the provisions of the Chapter related to the rules of competition [i.e. art. 85-94] do not apply to agriculture.

Article 19 of this regulation extends the Commission's powers under Treaty article 92-4 to this specific sector. Further, this provision delegates the Commission the power to 1) decide on the abolition or modification of existing M/S aid (Treaty art. 93.2) and 2) authorise new or modification of M/S aids (Treaty art. 93.3).

Not included: Reference to art. 7 in art. 11.5 because art. 7 already include the *blé dur* – art. 11.5

**Number of constraints to Commission****Cc = 5**

- 1) Rule-making requirements: detailed rules for setting intra-Community levies – art. 2.1, 11.1, 14.1  
Detailed rules setting prices (*franco frontière* FOB, threshold prices) - art. 3, 4,  
Detailed rules for *montants forfaitaires* – art. 9  
Detailed rules for import levies and *CAF* prices - art. 10, 11.2, 17.2  
Detailed criteria for reimbursements of intra-Community levies – art. 19.2
- 2) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 26 (Management committee on cereals) – art. 3, 4, 7.4, 8.2, 9.1, 9.2, 10.3, 10.4, 11.1, 11.2, 11.8, 11.9, 12, 14.2, 15.2, 15.4, 16.3, 19.2, 20.2, 29
- 3) Reporting: Commission to produce an annual report on import certificate – art. 16.2
- 4) Consultation requirements – Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to cereals, reference to Treaty art. 93.2-3 – art. 19.1  
Consultation of M/S within the Management committee for cereals – art. 22.2, 23.2

5) Legislative action possible – M/S can request the Council to adopt its aid to cereals by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 19.1

Council can modify Commission's decision under art. 22.2 (ex-post approval), if Council's meeting is called within 3 days by the involved Member State, the Commission's decision is suspended for 10 days (ex-ante approval) (Commission's measure stands in case of Council inaction)– art. 22.3

Note (*this applies to all acts on the common organisation of agricultural and fishery markets*):

The extension of the Commission's powers under Treaty articles 92-4 adds also two constraints on the Commission: 1) consultation and 2) legislative action possible (both in Treaty article 93.2).

*seigle* = rye

*blé* = wheat

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**Number**            **362R0025**

**Title**

**Regulation No 25 on the financing of the common agricultural policy**

**Description: Establishment of the EAGGF**

**Major provisions**

**M = 14**

**Provisions delegating authority**

**D = 0**

**Number of constraints**

**C = 0**

**Provisions delegating authority to M/S**

**Dg = 0**

**Number of constraints to M/S**

**Cg = 0**

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 362R0026

**Title**

**Regulation No 26 applying certain rules of competition to production of and trade in agricultural products**

**Description: Application of competition rules to agriculture**

**Major provisions**

**M = 11**

**Provisions delegating authority**

**D = 5**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 2**

- 1) Extension of powers of Treaty art. 89.2 to agricultural products (M/S to take measures against infringement of competition rules) – art. 1
- 2) Extension of powers of Treaty art. 91.1 to agricultural products (M/S to take protective anti-dumping measures) – art. 3

Note: According to Treaty art. 42, the executive powers of the Commission and of Member States under articles 85-94 did not extend to agriculture. This regulation extends them.

Not included: In art. 1, extension of powers under Treaty art. 88 is not considered because they expired upon entry into force of implementing provisions, namely of Regulation 17/62.

**Number of constraints to M/S**

**Cg = 1**

- 1) Executive action required 1: Extension of constraint under Treaty art. 89.2 to agricultural products (Commission to authorise M/S to take measures regarding infringement of competition rules) – art. 1

Extension of constraint under Treaty art. 91.1 (Commission to authorise M/S to take protective anti-dumping measures) – art. 3

**Provisions delegating authority to Commission**

**Dc = 5**

- 1) Extension of powers of Treaty art. 89.1 to agricultural products (Commission to investigate infringements under art. 85 and 86) – art. 1 (New Major Provision)
- 2) Extension of powers of Treaty art. 89.2 to agricultural products (Commission to adopt a decision and authorise M/S to take measures after setting conditions and particulars) – art. 1
- 3) Extension of powers of Treaty art. 90.3 to agricultural products (Commission to issue directive and decisions regarding public enterprises) – art. 1 (New Major Provision)
- 4) Commission to decide which agreements fulfil conditions of art. 2.1 – art. 2.2
- 5) Extension of powers of Treaty art. 91.1 to agricultural products (Commission to authorise M/S to take protective anti-dumping measures and set conditions and particulars) – art. 3.1

Not included: Commission measures under art. 3.2 second paragraph simply repeat art 3.1

References in art. 4 to Treaty art. 93.1 and 93.3 include no delegation of powers

**Number of constraints to Commission**

**Cc = 3**

- 1) Exemption: Exemption of application of Treaty art. 85.1 to farmers in some cases – art. 2.1
- 2) Consultation: Commission to consult Member States prior to taking decision – art. 2.2
- 3) Public hearing of interested parties: Commission to hear from undertakings and any natural or legal person before decision – art. 2.2

Not included: This provision does not go beyond Treaty art. 173: Specification that the ECJ review Commission's decisions – art. 2.2

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**Number 362R0141**

**Title**

**Regulation No 141 of the Council exempting transport from the application of Council Regulation No 17**

**Description: Exemption of application of competition rules to transport**

<b>Major provisions</b>	<b>M = 4</b>
<b>Provisions delegating authority</b>	<b>D = 0</b>
<b>Number of constraints</b>	<b>C = 0</b>
<b>Provisions delegating authority to M/S</b>	<b>Dg = 0</b>
<b>Number of constraints to M/S</b>	<b>Cg = 0</b>
<b>Provisions delegating authority to Commission</b>	<b>Dc = 0</b>
<b>Number of constraints to Commission</b>	<b>Cc = 0</b>

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**Number 363L0021**

**Title**

**Second Council 63/21/EEC Directive of 18 December 1962 adding to and amending the First Directive for the implementation of Article 67 of the Treaty**

**Description: Addition and amendment of the first directive that liberalises some types of capital movements**

<b>Major provisions</b>	<b>M = 4</b>
<b>Provisions delegating authority</b>	<b>D = 0</b>
<b>Number of constraints</b>	<b>C = 0</b>
<b>Provisions delegating authority to M/S</b>	<b>Dg = 0</b>
Not included: General call for M/S to take the necessary measures – art. 3	
<b>Number of constraints to M/S</b>	<b>Cg = 0</b>
Not included: <u>Rule-making requirements</u> : List of the capital movements where M/S has to take action – art. 2	
<b>Provisions delegating authority to Commission</b>	<b>Dc = 0</b>
<b>Number of constraints to Commission</b>	<b>Cc = 0</b>

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**Number** 363L0340

**Title**

**Council Directive 63/340/EEC of 31 May 1963 on the abolition of all prohibitions on or obstacles to payments for services where the only restrictions on exchange of services are those governing such payments**

**Description: Abolition of obstacles to payments for services**

**Major provisions** M = 5

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

Not included: Article 2 asserts that the Directive does not derogate from the right of M/S to verify the nature of payment and take measures to prevent infringements; this is a 'no prejudice provision', these prerogatives would have not been otherwise relinquished as a result of this Directive.

Not included: General call for M/S to adopt the measure in pursuance of the directive – art. 4

**Number of constraints to M/S** Cg = 0

Not included: Exemption in art 3 second paragraph as it does not constraint M/S

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 363L0474

**Title**

**Council Directive 63/474/EEC of 30 July 1963 liberalising transfers in respect of invisible transactions not connected with the movement of goods, services, capital or persons**

**Description: Liberalisation of invisible transactions**

**Major provisions** M = 6

**Provisions delegating authority** D = 1

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 1

1) M/S to take measures of simplification – art. 2.2

Not included: Article 2.1 asserts that the Directive does not restrict the right of M/S to verify the nature of payment and take measures to prevent infringements; this is a 'no prejudice provision', these prerogatives would have not been otherwise relinquished as a result of this Directive.

Not included: A general call for M/S to adopt measures pursuant to the directive provisions – art. 3

**Number of constraints to M/S** Cg = 1

1) Rule-making requirement: Detailed list of the invisible transactions where M/S must act - art. 1 and Annex

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 364R0017

**Title**

**Regulation No 17/64/EEC of the Council of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund**

**Description: Operation of the EAGGF**

**Major provisions** M = 72

**Provisions delegating authority** D = 19

**Number of constraints** C = 6

**Provisions delegating authority to M/S** Dg = 3

1) M/S to calculate the amount of the average refund for each basic products – art. 3.1

2) M/S to approve projects for the guidance section – art. 20.3

3) M/S to adopt measures to facilitate inspections – art. 29 (New Major Provision)

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Calculation of net quantities exported – art. 2.4

Detailed rules to compute the rate of refund and non-representative quantities – art. 3.2

2) Spending limit: of 25% on subsidizing projects in guidance section – art. 18.1

**Provisions delegating authority to Commission** Dc = 14

1) Commission to decide the adoption of coefficients following art. 7 (related to art. 26 of Reg. 19/62) – art. 2.3

2) Commission to set rules to implement the paragraph following art. 26 – art. 2.4

3) Commission to assess guarantees following art. 7 (related to art. 26 of Reg. 19/62) - art. 2.4 last paragraph (new Major Provision)

4) Commission to adopt special provisions following art. 26 – art. 3.2

5) Commission to compute the lowest average refund following art. 26– art. 4.1

6) Commission to compute non representative quantities following art. 26 – art. 4.2

7) Commission to compute correction to average refunds following art. 26– art. 4.3

8) Commission to determine the rules for the application for reimbursement following art. 26 – art. 9.2

9) Commission to decide on the reimbursement applications of guarantee section – art. 10

10) Commission to set rules of application of Community programmes following art. 19.1 – art. 16.3

11) Commission to set rules of aid application following art. 19.1 – art. 20.5

12) Commission to decide on aid application under the guidance section following art. 20 and art. 19.1 – art. 21.1

13) Commission's power to carry out inspection on the spot – art. 22.2

14) Commission decision to suspend, reduce or discontinue aid following art. 19.1 – art. 22.2 second paragraph

**Number of constraints to Commission** Cc = 6

1) Rule-making requirements: criteria for the 'basic products' method – art. 2.1

Adoption of standard coefficient – art. 2.3; Calculation of net quantities exported – art. 2.4

Detailed rules to compute the rate of refund and non-representative quantities – art. 4.2

Detailed rule for the correction of average refund – art. 4.3

2) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 7 that relates to art. 26 of Reg. 19/62 (Product-specific management committee, for guarantee section) – art. 2.3, 2.4

rules to be adopted following the management committee procedure IIa of art. 26 (EAGGF Fund committee, for guarantee section) – art. 2.4, 3.2, 4.1, 4.2, 4.3, 9.2

rules to be adopted following the management committee procedure IIa as referred in art. 19.1 (Standing Committee on Agricultural Structures, for guidance section) that relates art. 26 – art. 16.3, 20.5

Commission's decision on aid application (and eventual suspension or reduction) to be adopted following the management committee procedure IIa as referred in art. 19.1 (Standing Committee on Agricultural Structures) that relates art. 26 – art. 21.1, 22.2 second paragraph

3) Consultation requirements – prior consultation of the EAGGF Fund committee – art. 10, 16.3, 21.1, 22.2 second paragraph

4) Executive Action Required 1 – prior approval of a Member State for aid applications under the guidance section following art. 20 – art. 20.3

5) Reporting requirements: Commission to produce a report on the developments – art. 17.1, 18.2

6) Spending limit: of 25% on subsidizing projects in guidance section – art. 18.1

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**Number** 364R0038

**Title**

**Règlement n° 38/64/CEE du Conseil du 25 mars 1964 relatif à la libre circulation des travailleurs à l'intérieur de la Communauté**

**Description: Measures for free movement of workers**

**Major provisions**

**M = 110**

**Provisions delegating authority**

**D = 12**

**Number of constraints**

**C = 5**

**Provisions delegating authority to M/S**

**Dg = 9**

- 1) M/S may suspend application of art. 1 – art. 2.1
- 2) M/S may set up contingents of seasonal workers for some specific works – art. 14.1
- 3) M/S to favor the entrance of all family members – art. 17.2
- 4) M/S may decide to replace work permit with the work contract for seasonal workers – art. 23.1e
- 5) M/S regional services to carry out between themselves the matching of labor demand and supply, delegation by the central services – art. 27.1a
- 6) M/S Local services to carry out between themselves the matching of labor demand and supply for trans-border workers, delegation by the central services – art. 27.2
- 7) Executive institutions of bilateral agreements may carry out between themselves the matching of labor demand and supply, especially for some important groups and regions – art. 28.1
- 8) M/S competent services to carry out between themselves the matching of labor demand and supply – art. 30.1
- 9) M/S authorities to organize visits and assignments – art. 37

Note: article 14.1 asserts that article 13 is no prejudice to the establishment of contingents of seasonal workers, though it is worded as a 'no prejudice' provision, this prerogative would have otherwise been relinquished as a result of article 13, thus article 14.1 is included; article 28.1 refer to institutions appointed by M/S and under their control, hence it is delegation to M/S.

Not included: Article 9.2 asserts that M/S provisions granting more extensive rights to workers coming from other M/S are maintained, this is a 'no prejudice provision', prerogatives would have not been otherwise relinquished; M/S specialist services remain in charge of the organization the machinery of vacancy clearance - art. 24.2 (this also repeats art. 30.1); Possibility for co-operation between specialized and professional official services – art. 27.1c;

**Number of constraints to M/S**

**Cg = 3**

- 1) Exemption : ECSC and EAEC exemption – art. 53.1, 53.3, 54a
- 2) Rule-making requirements: Detailed criteria for measures taken under art. 2.1 – art. 3, 4, 5, 6, 7; Criteria specifying border workers – art. 3.2; Criteria about seasonal workers – art. 14.2; Criteria for matching of labor demand and supply – art. 30.2
- 3) Reporting requirements: Reporting requirement on Member State employment agencies – art. 26.1b

Not included: article 27 asserts that regional and border services may carry out activities only upon the authority of central services, this could be considered as a constraint for local authorities (i.e. Executive Action Required 1), however it is not a constraint from a M/S perspective.

**Provisions delegating authority to Commission**

**Dc = 4**

- 1) Commission to specify by regulation the border zones – art. 3.2
- 2) Commission to specify by regulation municipalities inside the border zones – art. 3.3
- 3) European Coordination Bureau to carry out the matching of labor demand and supply – art. 33
- 4) Commission to set rules and conditions for the visits and mission of officials – art. 37

Not included: European Co-ordination Office has been established with Regulation 15/61; General call upon the Commission to adopt implementing measures – art. 56

**Number of constraints to Commission**

**Cc = 5**

- 1) Exemption : ECSC and EAEC exemption – art. 53.1, 53.3, 54a
- 2) Rule-making requirements: Criteria specifying border workers – art. 3.2; Criteria for matching of labor demand and supply – art. 30.2
- 3) Executive Action Required 1: Commission to specify by regulation the border zones only if two Member States require so, and has to change if two Member States agree – art. 3.2; Commission needs Member State approval for the specification of municipalities inside the border zones – art. 3.3; European Co-ordination Office needs agreement of specialist services before carrying out vacancy clearance – 33
- 4) Reporting requirements: Commission to produce a report on the Community labor market – art. 29.1  
European Coordination Bureau to produce an annual report on labor market activities – art. 36.4
- 5) Consultation: Commission to consult the Technical Committee when set rules and conditions for the visits and mission of officials – art. 37

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**Number** 364L0220

**Title**

**Council Directive 64/220/EEC of 25 February 1964 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services**

**Description: Abolition restrictions on movement and residence**

**Major provisions** M = 15

**Provisions delegating authority** D = 5

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 5

1) M/S to examine in a favorable way members of the family of persons under art. 1a, b – art. 1.2

2) M/S to support the granting of visa to persons under art. 1c, d – art. 2.2

3) M/S may require the persons entering the country to notify their presence – art. 3.2

4) M/S to issue and renew, following their laws, identity cards and passport – art. 6.1

5) M/S may derogate from the provisions in case of public order, security and health – art. 8

Not included: M/S recognize rights of residence with the issuance of a residence permit – art. 3.1; General call for M/S implementation of the directive provisions – art. 9

**Number of constraints to M/S** Cg = 1

1) Rule-making requirement: Detailed rules of the abolition of restrictions – art. 1c; Rules for residence permit – art. 3; Rules for the issuance of identity cards or passports – art. 6

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 364L0221

**Title**

**Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health**

**Description: Limitations on movement and residence of foreign nationals based on public policy, security or health**

**Major provisions** M = 21

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

Not included: Decision to grant or to refuse a first residence permit by M/S – art. 5.1 (it is not worded in a way that lead to infer that delegation has taken place)

Not included: M/S may request other M/S to provide information on police records (this could have been a supporting power for the decision grant permits, coupled with an obligation on M/S to supply information, but previous criminal convictions do not constitute grounds for the refusal of a residence permit – art. 3.1-2) – art. 5.2; General call for M/S implementation of the directive provisions – art. 10.1

**Number of constraints to M/S** Cg = 0

Not included: Rule making requirements – Public policy, security and other rules to the issuance of residence permit – art. 3, 7; List of diseases and disabilities justifying refusal of entry – art. 4.1, see Annex; Appeals procedure: Specification of the rights and legal remedies that persons are entitled to – art. 8, 9

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 364L0222

**Title**

**Council Directive 64/222/EEC 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**

**Description: Specify conditions for requiring proof of qualification**

**Major provisions** M = 12

**Provisions delegating authority** D = 2

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 2

1) M/S may require for other M/S nationals proof of qualification – art. 3.1

2) M/S to designate authorities competent to issue certificates – art. 4.3

Not included: Competent national authority to certificate proof – art. 4.2; General call for M/S implementation of the directive provisions – art. 6

**Number of constraints to M/S** Cg = 2

1) Executive action required 1: Commission to authorize M/S to require for other M/S nationals proof of qualification – art. 3.1

2) Rule-making requirements – criteria specifying what consists proof of qualification – art. 2.2, 4.1; rules when proof cannot be asked – art. 3.1 second paragraph

**Provisions delegating authority to Commission** Dc = 1

1) Commission to authorise and specify rules to M/S to require proof from foreign nationals – art. 3.1

**Number of constraints to Commission** Cc = 1

1) Rule-making requirements – criteria specifying what consists proof of qualification – art. 2.2, 4.1; rules when proof cannot be asked – art. 3.1 second paragraph

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**Number** 364L0223

**Title**

**Council Directive 64/223/EEC of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities in wholesale trade**

**Description: Abolition on restriction to freedom of establishment and to provide services (wholesale trade)**

**Major provisions** M = 15

**Provisions delegating authority** D = 2

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 2

1) M/S to ensure that beneficiaries join organizations under the same conditions, rights and obligations – art. 4.1

2) M/S to designate authorities competent to issue documents – art. 6.4

Not included: General call for M/S implementation of the directive provisions – art. 7

**Number of constraints to M/S** Cg = 1

1) Rule requirements: Detailed list of the measures to be abolished – art. 3.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption in art. 2.1 as there is not delegation

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**Number** 364L0225

**Title**

**Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession**

**Description: Abolition to restrictions to services in reinsurance and retrocession**

**Major provisions** M = 5

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

Not Included: General call for M/S implementation of the directive provisions – art. 7

**Number of constraints to M/S** Cg = 0

Not included: Rule requirements: Detailed list of the measures to be abolished – art. 3

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 364L0427

**Title**

**Council Directive 64/427/EEC 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)**

**Description: Specify conditions for requiring proof of qualification for Major Groups 23-40**

**Major provisions** M = 15

**Provisions delegating authority** D = 4

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 4

- 1) M/S to grant authorisation to pursue activities – art. 4.3
- 2) M/S may request proof that foreign nationals possess qualifications – art. 5.1
- 3) Luxembourg may request a suspension of art. 3 – art. 5.3
- 4) M/S to designate authorities competent to issue certificates – art. 7

Not included: M/S to adopt transitional measures of the Regulation (obligation – measures are listed in the act) – art. 1; M/S to ensure that beneficiaries are informed (only information diffusion) – art. 2; National authorities to certify professional activities – art. 4.2; General call for M/S implementation of the directive provisions – art. 8

**Number of constraints to M/S** Cg = 2

- 1) Rule-making requirement – detailed criteria for proving professional knowledge and ability – art. 3; rules when proof cannot be asked – art. 5.1 second paragraph
- 2) Executive action required 1 - Commission to authorise and specify rules to M/S to require proof from foreign nationals – art. 5.1; Commission to authorise and specify condition for suspension of art. 3 in Luxembourg – art. 5.3

**Provisions delegating authority to Commission** Dc = 2

- 1) Commission to authorise and specify rules to Member States to require proof from foreign nationals – art. 5.1
- 2) Commission to authorise and specify conditions for suspension of art. 3 in Luxembourg – art. 5.3

**Number of constraints to Commission** Cc = 1

- 1) Rule-making requirement – detailed criteria for proving professional knowledge and ability – art. 3; rules when proof cannot be asked – art. 5.1 second paragraph

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**Number** 364L0432

**Title**

**Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine**

**Description: Measures for the control of animal diseases in intra-Community trade**

**Major provisions** M = 38

**Provisions delegating authority** D = 14

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 13

- 1) M/S to ensure that only animals fulfilling conditions of art. 3.2-7 are sent to another M/S – art. 3.1
- 2) Exporting M/S to designate officially approved market for consignment to another M/S – art. 3.8
- 3) Exporting M/S to determine the procedure for official supervision of markets and assembly points and ensure its implementation – art. 3.9
- 4) Exporting M/S to determine the procedure for official supervision of dealers' premises and ensure its implementation – art. 3.11
- 5) M/S to take measures to adapt vaccine formulae and use them accordingly – art. 5
- 6) Importing M/S may require notification from consignor (supporting power for measures in art. 6.3) – art. 6.2
- 7) Importing M/S may prohibit introduction of animals if rules in art. 3-4 are not complied with or in case of disease – art. 6.3
- 8) Importing M/S may take all necessary measures in case of prohibition – art. 6.3 second paragraph (New Major Provision)
- 9) Importing M/S may order destruction of animals in case of art. 6.3a applies – art. 6.4
- 10) M/S may designate the slaughterhouse to which animals must be sent to – art. 6.5
- 11) Exporting M/S to make the necessary investigations if there are new facts – art. 6.6
- 12) M/S may grant general or specific authorizations – art. 7.1
- 13) M/S may take measures in case of spreading of diseases – art. 9.1

Not included: art. 3.3a, 3.6a, 7.1b as they repeat art. 3.1; art. 2b repeats art. 6.5; General call for M/S implementation of the directive provisions – art. 12

**Number of constraints to M/S** Cg = 2

- 1) Rule-making requirements: detailed definitions (e.g. epizootic free area) – art. 2

List of conditions affecting intra-Community trade – art. 3.2, 3.3, 3.4, 3.6

Criteria for officially approved markets for consignment – art. 3.7

Rules of loading – art. 4.1; Notification not more than 48 hours before arrival – art. 6.2

Rules for slaughtering – art. 6.5; Rules for granting general or specific authorizations – art. 7.1

- 2) Appeals procedure: Specification of the appeals rights of consignor – art. 6.7; Consignor's rights to obtain the opinion of a Community veterinary expert – art. 10.2

**Provisions delegating authority to Commission** Dc = 1

- 1) Commission to specify general rules applying to the formulation of opinions of veterinary experts – art. 10.2

**Number of constraints to Commission** Cc = 1

- 1) Consultation: Consultation of M/S before specifying rules applying to veterinary experts' opinions – art. 10.2

Not included: Exemption in art. 8 because there is no delegation

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**Number** 365R0019

**Title**

**Regulation No 19/65/EEC application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices**

**Description: Commission can exempt agreements and practices from application of Treaty art. 85.3**

**Major provisions** M = 14

**Provisions delegating authority** D = 4

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 0

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 4

- 1) Commission may, by regulation, exempt categories of agreements from Treaty art. 85.1 – art. 1.1
- 2) Extension of Commission's powers of art 1.1 to categories of concerted practices – art. 1.3
- 3) Commission's power to repeal and amend regulations where circumstances have changed – art. 2.2
- 4) Commission may withdraw the benefit of application of an art. 1.1 regulation and issue a decision – art. 7

**Number of constraints to Commission** Cc = 3

- 1) Rule-making requirements – Criteria on the type of agreement and practices that can be exempted – art. 1.1, 1.3
- 2) Public hearings of interested parties – Persons to submit comments before the adoption of a regulation – art. 5
- 3) Consultation: of the Advisory Committee on Restrictive Practices and Monopolies – art. 6.1-2

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**Number** 366R0136

**Title**

**Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organisation of the market in oils and fats**

**Description: Establishment of a common organisation of the market in oils and fats**

**Major provisions** M = 80

**Provisions delegating authority** D = 17

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 3

1) Intervention agencies may conclude storage contracts (olive oil)– art. 11.2

2) M/S may grant subsidies for the extraction of oil – art. 30

3) M/S may grant subsidies for the production of linseed – art. 31

Not included: Intervention agency to buy in oil, no real discretion – art. 11.1, 26.1

**Number of constraints to M/S** Cg = 1

1) Time limit: M/S may grant subsidies for five years – art. 30

**Provisions delegating authority to Commission** Dc = 13

1) Commission to set rules for the granting of subsidies (olive oil), following procedure art. 38 – art. 10.3

2) Commission to determine new main intervention centres (olive oil), following procedure art. 38 – art. 11.4

3) Commission to set rules about quality and size of consignments (olive oil), following procedure art. 38 – art. 11.5

4) Commission to fix levy (some discretion in art. 13) (olive oil) – art. 13.4 first sentence (New Major Provision)

5) Commission to set rules and criteria for determining c.i.f. and other prices (olive oil), following procedure art. 38 – art. 13.4 second sentence

6) Commission to set rules on import/export licenses (olive oil), following procedure art. 38 – art. 17.3

7) Commission to determine new main intervention centres and fixing other derived intervention prices (other vegetable oils, oil seeds), following procedure art. 38 – art. 22.2

8) Commission to set rules about quality and size of consignments (other vegetable oils, oil seeds), following procedure art. 38 – art. 26.3

9) Commission to fix the amount of subsidy – art. 27.4

10) Commission to set rules of application (other vegetable oils, oil seeds), following procedure art. 38 – art. 27.5

11) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to oils and fats, reference to Treaty art. 93.2 – art. 33

12) Extension of Commission's powers to new or modification of M/S aids to oils and fats, reference to Treaty art. 93.3 – art. 33 (new Major Provision)

13) Commission may adopt transitional measures, following procedure art. 38 – art. 43

**Number of constraints to Commission** Cc = 5

1) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 38 (Management Committee for Oils and Fats) – art. 10.3, 11.5, 13.4, 17.3, 26.3, 27.5, 43

new main intervention centres to be determined following the management committee procedure IIa of art. 38 (Management Committee for Oils and Fats) – art. 11.4, 22.2

2) Consultation : Consultation of Member States before determining new main intervention centres – art. 11.4, 22.2  
Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to oils and fats, reference to Treaty art. 93.2-3 – art. 33

3) Spending Limits: Limits for the fixing of subsidies by the Commission – art. 27.1

4) Legislative action possible: M/S can request the Council to adopt its aid to oils and fats by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 33

5) Time limits: Commission can adopt transitional measures only in the first year – art. 43

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**Number** 367R0120

**Title**

**Regulation No 120/67/EEC of the Council of 13 June 1967 on the common organisation of the market in cereals**

**Description: Re-organisation of the common organisation of the market in cereals**

**Major provisions** M = 92

**Provisions delegating authority** D = 25

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 4

1) Intervention authorities may sell some products with discretion (*blè tendre, seigle*) - art. 7.3

2) M/S to issue import/export licenses – art. 12.1

3) Italy may set a lower import levy if sea import – art. 23.1

4) Italy may also set a lower import levy in other cases – art. 23.2

Not included: Intervention authorities to buy cereals (no discretion) – art. 7.1; Protective measures of art. 20 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S** Cg = 2

1) Rule-making requirement: Criteria for Italy setting lower import levies – art. 23.1, 23.2

2) Time limits: Italy setting lower import levies only until 1972 (1970 if import not from sea) – art. 23.1, 23.2

**Provisions delegating authority to Commission** Dc = 21

1) Commission to adopt the commercialization centres and the derived intervention prices, following procedure art. 26 (except those where M/S has large production) – art. 4.6

2) Commission to adopt the threshold prices (products art. 1 c), following procedure of art. 26 – art. 5.6

3) Commission to adopt minimum quantities and qualities, scale of premium, various procedure and rules, following procedure of art. 26 – art. 7.5

4) Commission to decide nature and application of specific measures, following procedure of art. 26 – art. 8

5) Commission to adopt implementation rules and minimum quantities, following procedure of art. 26 – art. 9.6

6) Commission to adopt implementation and other rules about validity of import/export licenses, following procedure of art. 26 – art. 12.2

7) Commission to adopt implementation rules, coefficients of equivalence, CAF prices, and margins (products in art. 1 a,b,c), following procedure of art. 26 – art. 13.4

8) Commission set the import levies (products in art. 1 a,b,c) – art. 13.5

9) Commission can set additional charge to import levy (product under art. 1d), following procedure of art. 26 – art. 14.2

10) Commission set the import levies (products in art. 1 d) – art. 14.4

11) Commission can decide to apply art. 15.2 to products under art. 1 c,d, following procedure of art. 26 – art. 15.3

12) Commission to adopt the scale of premium – art. 15.5

13) Commission to periodically grant export subsidies (*restitution à l'exportation*), following procedure of art. 26 – art. 16.2

14) Commission can modify export subsidies in case of urgency – art. 16.2 last sentence (New Major provision)

15) Commission to set rules implementing art. 16, following procedure of art. 26 – art. 16.6

16) Commission to decide measures, with immediate effect, in case of serious disturbances – art. 20.2

17) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to cereals, reference to Treaty art. 93.2 – art. 22

18) Extension of Commission's powers to new or modification of M/S aids to cereals, reference to Treaty art. 93.3 – art. 22 (new Major Provision)

19) Commission to set rules for implementation for Italian import levies, following procedure of art. 26 – art. 23.5

20) Commission to take transitional measures, following procedure of art. 26 – art. 32.1

21) Commission can set the derived intervention prices of *blé dur* equal to the lowest ones, following procedure art. 26 – art. 32.3

Not included: rules for the exchange of data, following procedure under art. 26, only information exchange – art. 24

**Number of constraints to Commission** Cc = 7

1) Executive Action Possible – centres, prices, rules and other elements to be determined following the management committee procedure IIa of art. 26 (Management Committee for Cereals) – art. 4.6, 5.6, 7.5, 8, 9.6, 12.2, 13.4, 14.2, 15.3, 16.2, 16.6, 23.5, 32.1, 32.3

1) Consultation: Commission to consult M/S prior to adoption of the commercialization centres and the derived intervention prices – art. 4.6

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to cereals, reference to Treaty art. 93.2-3 – art. 22

2) Rule making requirements: Details rules for setting prices (derived intervention prices, threshold prices, CAF prices) – art. 4.1, 5.1, 13

Rules for levies of products under art. 1d – art. 14; Rules of export subsidies – art. 16

Criteria for Italy setting lower import levies – art. 23.1, 23.2

- 3) Reporting requirements: Commission to produce a report about the measures taken under art. 8 – art. 8
- 4) Legislative action possible: Council can modify or amend the measure by qualified majority if a M/S refers it to the Council within three days, measure should stand in case of inaction – art. 20.3

M/S can request the Council to adopt its aid to cereals by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 22

- 6) Time Limit: Commission can take transitional measures only until 31/7/68 – art. 32.1

Commission can set the derived intervention prices of *blé dur* equal to the lowest ones only in 1967-9 – art. 32.3

- 7) Executive action required 1: Commission can set the derived intervention prices of *blé dur* equal to the lowest ones, only upon request of a M/S – art. 32.3

*seigle* = rye

*blé tendre* = common wheat

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**Number** 367L0227

**Title**

**First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes**

**Description: First directive on Value-added Tax (VAT)**

**Major provisions** M = 6

**Provisions delegating authority** D = 2

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 2

1) M/S to replace their turnover taxes by a common system of VAT – art. 1

2) M/S may apply VAT only up to wholesale trade and a separate complementary retail tax – art. 2

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Detailed rules describing the VAT – art. 2

2) Consultation: M/S to consult the Commission if it is to enact legislation and administrative provisions that may cause distortion, reference to Treaty art. 102.1 – art. 5

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 367L0228

**Title**

**Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes - Structure and procedures for application of the common system of value added tax**

**Description: Second VAT directive – structure and procedures**

**Major provisions** M = 39

**Provisions delegating authority** D = 14

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 14

1) M/S to set up the VAT – art. 1

2) M/S may decide that the fact generating tax in case of import and when VAT is payable following their own customs and tax laws and in case of a *régime suspensif* – art. 7.2

3) M/S may increase the tax base from import considering the accessories – art. 8

4) M/S to fix a normal tax rate for the VAT – art. 9.1

5) M/S may set up lower or higher tax rates in some cases – art. 9.2

6) M/S to determine the conditions under which specific activities are exonerated from VAT – art. 10.1

7) M/S may exonerate from VAT some services linked to goods import – art. 10.2

8) M/S may decide on other activities to exonerate – art. 10.3

9) M/S to determine the rules governing the amount of deduction in case of partial deduction – art. 11.3

10) M/S may exclude some goods and services from deduction – art. 11.4

11) M/S may, in exceptional cases, set up particular simplification and anti-fraud measures – art. 13

12) M/S may adopt ad-hoc regimes from small enterprises – art. 14

13) M/S may adopt their own regimes for agricultural products – art. 15.2

14) M/S may adopt transitional measures – art. 17

Not included: M/S may decide that tax is generated when the invoice is issued or the deposit is paid (for down payments), there is no real delegation of powers or discretion in this choice, no impact on the policy – art. 5.5, 6.4

**Number of constraints to M/S** Cg = 4

1) Rule-making requirements: Definition of good delivery and other terminology – art. 5; List of services charged by VAT – art. 6.2 and annex B; Criteria for the tax base – art. 8; Rules for tax deduction – art. 11

2) Consultation: M/S to consult the Commission following Treaty art. 102.1, as referred in art. 16 – art. 10.2, 10.3, 14, 15.2, 17

3) Legislative action required: M/S needs Council approval, either by unanimity or qualified majority, when the M/S sets up particular simplification and anti-fraud measures if referred to the Council within one month. M/S cannot adopt the measures for one month or, if referred, until Council approves. The Council has to decide in three months but the provision does not say the M/S measure can be applied in case of Council's inaction – art. 13

4) Time Limit: M/S can adopt measures only transitionally, some limited to one year – art. 17

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: the Commission to produce a report, there is not delegation to the Commission – art. 18

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**Number** 368L0151

**Title**

**First Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community**

**Description: First directive on co-ordination of company law**

**Major provisions**

**M = 27**

**Provisions delegating authority**

**D = 9**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 9**

- 1) M/S to take measures for compulsory disclosure of documents and particulars – art. 2.1
  - 2) M/S to take measures to avoid discrepancy between disclosed and registered documents – art. 3.6
  - 3) M/S to determine the persons in charge of disclosure formalities – art. 5
  - 4) M/S to provide for penalties – art. 6
  - 5) M/S may provide that company is not bound by an act outside its objects – art. 9.1
  - 6) M/S may provide that some provisions can be relied on as against third parties – art. 9.3
  - 7) M/S can decide that nullity of company objects may be ordered if contrary to public policy (rather general call implying considerable discretion) – art. 11.2
  - 8) M/S to adopt provision for the consequences of nullity – art. 12.4
  - 9) M/S may provide that initial disclosure to take place until next amendment or 31/12/70 - art. 13 third paragraph
- Not included: Opening of a file in the central register – art. 3.1; M/S to appoint the national gazette when documents and particulars are published – art. 3.4; General call for M/S to adopt implementing measures - art. 13 first paragraph

**Number of constraints to M/S**

**Cg = 1**

- 1) Rule-making requirements: Detailed list of the documents and particulars – art. 2

Not included: Appeal procedure in art. 12.1, as it is a constraint to third parties or companies, not to M/S

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 368R0234

**Title**

**Regulation (EEC) No 234/68 of the Council of 27 February 1968 on the establishment of a common organisation of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage**

**Description: Establishment of a common organisation of the market in live trees, plants et al.**

**Major provisions** M = 29

**Provisions delegating authority** D = 10

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 2

1) M/S to carry out quality inspections – art. 5.1

2) M/S may maintain quantitative restrictions and similar measures and use Treaty art. 44 (i.e. adoption of a system of minimum prices) for some products – art. 10.2

Not included: Protective measures of art. 11 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S** Cg = 2

1) Consultation: In the extension of the applicability of Treaty art. 44.4, such article provides for M/S to communicate the setting of minimum prices to Commission and M/S and wait for comments – art. 10.2

2) Time limit: M/S to maintain quantitative restrictions and similar measures and use Treaty art. 44 only until 31/12/68 for some products – art. 10.2

**Provisions delegating authority to Commission** Dc = 7

1) Commission to adopt adjustment to quality standards, following procedure art. 14 – art. 4

2) Commission to set rules for the carrying out quality inspections, following procedure art. 14 – art. 5.2

3) Commission to set minimum prices for exports to third countries, following procedure art. 14 – art. 7.1

4) Commission to set rules for export to third countries, following procedure art. 14 – art. 7.2

5) Commission to decide upon the necessary (and immediately applicable) measures in case disturbances – art. 9.2

6) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to live plants, reference to Treaty art. 93.2 – art. 11

7) Extension of Commission's powers to new or modification of M/S aids to live plants, reference to Treaty art. 93.3 – art. 11 (new Major Provision)

**Number of constraints to Commission** Cc = 3

1) Executive Action Possible – measures to be adopted following the management committee procedure IIa of art. 14 (Management Committee for Live Plants) – art. 4, 5.2, 7.1, 7.2

2) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (it does not say, but Commission's measure should stand in case of inaction) – art. 9.3

M/S can request the Council to adopt its aid to live plants by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 11

3) Consultation: Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to live plants, reference to Treaty art. 93.2-3 – art. 11

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**Number** 368L0297

**Title**

**Council Directive 68/297/EEC of 19 July 1968 on the standardisation of provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles**

**Description: Harmonisation of duty-free admission for fuel**

**Major provisions** M = 11

**Provisions delegating authority** D = 3

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 3

1) M/S to standardize provisions on duty-free admission of fuel – art. 1

2) M/S may admit duty-free quantities in excess of provisions in art. 3.1-2 - art. 3.3

3) M/S may limit duty-free quantities in the frontier zones – art. 5.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirement: To admit duty-free fifty litres of motor fuel – art. 3.1; Limit of 25 kg in the limits duty-free fuel of frontier zones – art. 5.1

2) Consultation: M/S to consult Commission prior to limiting duty-free quantities in the frontier zones – art. 5.1

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 368L0360

**Title**

**Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families**

**Description: Abolition of restrictions on workers movement and residence**

**Major provisions** M = 30

**Provisions delegating authority** D = 8

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 8

- 1) M/S to issue and renew, in accordance to their laws, identity cards and passports – art. 2.2
- 2) M/S to accord to family members every facility to get a visa – art. 3.2
- 3) M/S may limit the validity of temporary residence permits to the employment period – art. 6.3
- 4) M/S may restrict residence permit to one year in the first renewal in some cases – art. 7.2
- 5) M/S national authorities may issue special permits for frontier workers – art. 8.1b
- 6) M/S may require workers to report presence in the territory – art. 8.2
- 7) M/S to take step to simplify formalities and procedure – art. 9.3
- 8) M/S may derogate on grounds of public policy, security or health – art. 10

Not included: Obligation to abolish restrictions in art. 1; M/S to grant the right of residence, art. 4.1 (obligation); competent authority to issue a document testifying dependency – art. 4.3e; General call for M/S adoption of necessary measures of implementation – art. 12.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Rule concerning validity of passports – art. 2.3; Rules on restriction of residence permit – art. 7.2; Rules on special permits for frontier workers – art. 8.1b; Rules on the derogation on grounds of public policy as listed in Directive 64/221;

Not included: Exemption in art. 11.1, it does not affect M/S powers

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 368R0459

**Title**

**Regulation (EEC) No 459/68 of the Council of 5 April 1968 on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Economic Community**

**Description: Anti-dumping and subsidies regime (anti-dumping and countervailing duties)**

**Major provisions**

**M = 83**

**Provisions delegating authority**

**D = 19**

**Number of constraints**

**C = 7**

**Provisions delegating authority to M/S**

**Dg = 10**

- 1) M/S to reject forthwith a complaint if it lacks particulars and there is no evidence of dumping and injury – art. 9
- 2) M/S to take the necessary steps to give effect to Commission's requests – art. 10.5b (new Major Provision)
- 3) M/S to decide to grant importers' application that product were not dumped or the dumping margin is lower – art. 19.4b
- 4) Extension to bounties, subsidies and countervailing duties of the powers under art. 6-21 – art. 25 (New Major Provision)
- 5) M/S can take whatever transitional measures appropriate to protect a domestic industry (transitional period) – art. 26.2
- 6) M/S to accept exporters' voluntary undertaking (revision of prices or cessation of export) (transitional period) – art. 26.5b
- 7) M/S to determine no injury (transitional period) – art. 26.5c (New Major Provision)
- 8) M/S to impose provisional anti-dumping duties (transitional period) – art. 26.6a
- 9) M/S to impose anti-dumping duties (transitional period) – art. 26.7
- 10) Extension to bounties, subsidies and countervailing duties of provisional powers (transitional period) – art. 26.13

Not included: M/S can object to other M/S or Commission's initial rejection – art. 9; M/S can object the M/S decision about the importer's application - art. 19.4b; General call for M/S to take necessary measures – art. 27

**Number of constraints to M/S**

**Cg = 5**

- 1) Rule-making requirements: Criteria specifying dumped product, reference to art. 3, art. 26.2; Rules on duties, reference to art. 19.3, art. 26.6a, 26.8c; Rules on bounties and subsidies and reference to art. 23, art. 26.13
- 2) Executive Action Possible: Rejection can be overruled if, within ten days, the Commission, at the request of a M/S or on its own initiative, has objected; in case of objection the Commission shall start examination at community level – art. 9  
Commission can object and overrule, within one month, the M/S decision about the importer's application that product were not dumped or the dumping margin is lower – art. 19.4b
- 3) Time limit: Measures under art. 26 are transitional until implementation of the regulation; Provisional anti-dumping duties for only a maximum of six months – art. 26.6b
- 4) Public Hearing of Interested Parties: When undertaking transitional measures, M/S to hear explanations from interested parties if they required in writing, moreover parties shall have, on request, also an opportunity to meet, reference to art. 10.6 – art. 26.4
- 5) Consultation: M/S to have, upon request, prior consultation immediately within the advisory committee – 26.10  
Not included: criteria determining injury (they are rather general) – art. 4; consultations under art. 26.12 in reference to art. 18.1 are not included because they are ex-post.

**Provisions delegating authority to Commission****Dc = 9**

- 1) Commission to reject forthwith a complaint submitted to it, if it lacks particulars and there is no evidence of dumping and injury – art. 9 (New Major Provision, because it is for complaints directed to the Commission)
- 2) Commission can obtain all necessary information (a supporting power of investigation) – art. 10.3a
- 3) Commission can request to carry out checks and inspections – art. 10.5a
- 4) Commission to decide that protective measures are unnecessary and terminate proceeding – i.e. determination of either no dumping or no injury - (it is not well specified in the article who takes such decision, I suggest the Commission because it is responsible of carrying out investigations) – art. 14.1a
- 5) Commission to accept exporters' voluntary undertaking (revision of prices or cessation of export) – art. 14.2a
- 6) Commission to decide on provisional anti-dumping duties – art. 15.1a
- 7) Commission can amend or revoke provisional anti-dumping duties, if the Council had not renewed them or taken a final decision – art. 18.2a
- 8) Commission to decide whether and to what extent M/S should grant importers' applications, where there are objections to M/S initial decision – art. 19.4b
- 9) Extension to bounties, subsidies and countervailing duties of the powers under art. 6-21 – art. 25

Not included: Commission can object to other M/S's initial rejection – art. 9; Commission to commence examination at Community level – art. 10.1; Commission to determine no injury, repetition of art. 14.1a – art. 14.2b

**Number of constraints to Commission****Cc = 7**

- 1) Rule-making requirements: Criteria specifying dumped product – art. 3; Rules on duties – art. 19.3; Rules on bounties and subsidies and reference to art. 3.5, art. 22,23
- 2) Executive Action Possible: Rejection can be overruled if, within ten days, a M/S has not objected; in case of objection the Commission shall start examination at community level – art. 9  
The decision to terminate the proceedings can be referred to the Council (which decides by qualified majority) if the advisory committee has objected; Commission's decision stands in case of Council's inaction – art. 14.1a (no decision rule is specified for the committee, it is similar to a M/S referring a Commission's measure to the Council. It can also be considered Legislative action possible)
- 3) Legislative action possible: If Commission rejects a M/S requests for a provisional duty, the Council may set such duty by qualified majority – art. 15.1c  
Council may either confirm or amend a provisional anti-dumping duty – art. 16.1  
Council can decide differently when Commission amend or revoke provisional anti-dumping duties – art. 18.2a
- 4) Public Hearing of Interested Parties: Commission to hear explanations from interested parties if they so required in a written request – art. 10.6a; Parties shall have, on request, also an opportunity to meet – art. 10.6b;
- 5) Consultation: Consultation of the advisory committee – art. 13, 14.2a, 15.1b, 18.2, 19.4b
- 6) Reporting: Commission to submit to the Council a report on the results of the investigation, if a member of the advisory committee objects, with a proposal for termination – 14.1a
- 7) Time limits: Provisional anti-dumping duties last three months, it can only be renew by the Council – art. 15.2a,  
Not included: criteria determining injury (they are rather general) – art. 4; consultations under art. 18.1 are not included because they are ex-post

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**Number** 368R0802

**Title**

**Regulation (EEC) No 802/68 of the Council of 27 June 1968 on the common definition of the concept of the origin of goods**

**Description: Common definition of the concept of the origin of goods**

**Major provisions** **M = 24**

**Provisions delegating authority** **D = 6**

**Number of constraints** **C = 5**

**Provisions delegating authority to M/S** **Dg = 3**

- 1) Competent authorities may demand any additional proof to certify origin – art. 9.2
- 2) M/S to take the requisite steps that certificates of origin comply with Annex II – art. 10.3
- 3) M/S may defer application of provisions under art. 14 – art. 15

**Number of constraints to M/S** **Cg = 3**

- 1) Rule-making requirement: Detailed criteria on goods wholly produced in one country – art. 4.2; Annex II for certificate of origin – art. 10.3;
- 2) Executive Action Required 1: Commission to authorize M/S deferral of application of provisions under art. 14 – art. 15
- 3) Time limit: Deferral for a maximum of one year, and article 15 remains in force for five years – art. 15

**Provisions delegating authority to Commission** **Dc = 3**

- 1) Commission to determine the circumstance in which the presumption of origin shall apply to essential spare parts, following procedure of art. 14 – art. 7
- 2) General call for Commission to adopt provisions for applying art. 4-7, 9 and 8, following procedure of art. 14 (included because articles and procedure are clearly specified) – art. 14.1
- 3) Commission may authorize M/S deferral of application of provision under art. 14 – art. 15

**Number of constraints to Commission** **Cc = 4**

- 1) Exemption: Regulation does not apply to petroleum products listed in Annex I – art. 3
- 2) Rule-making requirement: Detailed criteria on goods wholly produced in one country – art. 4.2
- 3) Executive Action Required 2: rules to be adopted following the regulatory committee procedure IIIa of art. 14 (Committee on origin) - art. 7, 14.1
- 4) Time limit: Deferral for a maximum of one year, and article 15 remains in force for five years – art. 15

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**Number** 368R0803

**Title**

**Regulation (EEC) No 803/68 of the Council of 27 June 1968 on the valuation of goods for customs purposes**

**Description: Valuation of goods for customs purposes**

**Major provisions**

**M = 54**

**Provisions delegating authority**

**D = 12**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 0**

Not included: General call for M/S to adopt measures for the application of the regulation – art. 21

**Number of constraints to M/S**

**Cg = 0**

Not included: Rule-making requirements: Same as Commission

**Provisions delegating authority to Commission**

**Dc = 11**

- 1) Commission to determine exceptions in good valuation when rights are held by a person in a M/S, following procedure art. 17 – art. 3.2
- 2) Commission to establish criteria for goods with low value, following procedure art. 17 – art. 3.5c
- 3) Commission to determine exceptions to normal price rules for goods in split consignments, following procedure art. 17 – art. 4.2
- 4) Commission to determine place of introduction in case of third country involvement, following procedure art. 17 – art. 6.2
- 5) Commission to determine rules for goods sent by post, following procedure art. 17 – art. 8.1
- 6) Commission to determine length and goods entitled of period of grace, following procedure art. 17 – art. 10.4
- 7) Commission may, exceptionally, suspend the periods of grace, following procedure art. 17 – art. 10.7
- 8) Commission to adapt rules for home use goods following another customs procedure, following procedure art. 17 – art. 11.6
- 9) Commission to determine the exchange rate in abnormal cases, following procedure art. 17 – art. 12.3
- 10) Commission to set rules and criteria for standard average values, following procedure art. 17 – art. 13.2
- 11) Commission to determine the particulars for customs authorities, following procedure art. 17 – art. 14

Not included: General call for Commission to adopt provisions for applying art. 1-3, and 6-11, following procedure of art. 17 – art. 17.1

**Number of constraints to Commission**

**Cc = 2**

1) Rule-making requirements: Normal price – art. 1.2; Sale in the open market – art. 2.1; Valuation rules – art. 3, Material time – art. 5; Place of introduction – art. 6, Costs – art. 7, Paid or payable price – art. 9, 10, Cash price payable – art. 11; Exchange rates – art. 12

2) Executive Action Required 2: rules to be adopted following the regulatory committee procedure IIIa of art. 17 (Customs Valuation Committee) - art. 3.2, 3.5c, 4.2, 6.2, 8.1, 10.4, 10.7, 11.6, 12.3, 13.2, 14, 17.1

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**Number** 368R0804

**Title**

**Regulation (EEC) No 804/68 of the Council of 27 June 1968 on the common organisation of the market in milk and milk products**

**Description: Common organisation of the market in milk and milk products**

**Major provisions** M = 100

**Provisions delegating authority** D = 26

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S may issue export/import licenses – art. 13.2
- 2) M/S may retain restrictions until transitional provisions are applied – art. 22.2
- 3) Italy and Germany may retain some measures – art. 22.2 fourth paragraph (New Major Provision)
- 4) Germany may grant degressive national aids to consumption – art. 25.1
- 5) Luxembourg may grant aid to milk producers – art. 25.2
- 6) M/S may grant aid for milk for school children – art. 26

Not included: intervention agencies to buy and dispose products (no discretion) – art. 6, 7, 8

Measures of art. 21 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S** Cg = 3

- 1) Time Limit: M/S to retain restrictions no later than 1/1/69 – art. 22.2; Extension for Italy and Germany to 31/12/69 – art. 22.2; Germany to grant degressive national aids until 31/12/69 – art. 25.1; Luxembourg to aid to milk producers until 1972 – art. 25.2
- 2) Legislative Action Required: Council to approve Germany's degressive national aids to consumption (prior approval) – art. 25.1
- 3) Spending limit: Germany's aid should be degressive – art. 25.1; Limit on Luxembourg's aid to milk producers – art. 25.2;

**Provisions delegating authority to Commission** Dc = 19

- 1) Commission to set rules about the aid for private storage (butter), following procedure of art. 30 – art. 6.7
- 2) Commission to set rules for application (milk powder), following procedure of art. 30 – art. 7.5
- 3) Commission to set rules for application (cheese), following procedure of art. 30 – art. 8.5
- 4) Commission to set rules of intervention measures (cheese), following procedure of art. 30 – art. 9.3
- 5) Commission to set rules for application (milk powder for feeding), following procedure of art. 30 – art. 10.3
- 6) Commission to adopt aid rules (casein milk), following procedure of art. 30 – art. 11.3
- 7) Commission to set rules for application (butterfat), following procedure of art. 30 – art. 12.3
- 8) Commission to set rules about licenses, following procedure of art. 30 – art. 13.3
- 9) Commission to set rules on methods to determine price and margin, following procedure of art. 30 – art. 14.7
- 10) Commission to fix import levies – art. 14.8
- 11) Commission to set rules on measures for control of butter imports, following procedure of art. 30 – art. 16.2
- 12) Commission to set rules for application (export refund), following procedure of art. 30 – art. 17.4
- 13) Commission to fix export refunds at regular intervals, following procedure of art. 30 – art. 17.4 second paragraph (New Major Provision)
- 14) Commission may alter refunds in the intervening period – art. 17.5
- 15) Commission to take the necessary and immediately applicable measures in case of disturbances – art. 21.2
- 16) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to milk products, reference to Treaty art. 93.2 – art. 23
- 17) Extension of Commission's powers to new or modification of M/S aids to milk products, reference to Treaty art. 93.3 – art. 23 (new Major Provision)
- 18) Commission to set rules for compensatory amounts, following procedure of art. 30 – art. 25.5
- 19) Commission to adopt transitional measures, following procedure of art. 30 – art. 35

Not included: Commission to set rules for the communication and distribution of information, following procedure of art. 30 (rule only for information exchange) – art. 28; Necessary measures to be taken (it does not specify the institution taking the measures) – art. 20.1; Application of CCT rules – art. 36

**Number of constraints to Commission**

**Cc = 5**

- 1) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 30 (Management Committee for Milk and Milk Products) – art. 6.7, 7.5, 8.5, 9.3, 10.3, 11.3, 12.3, 13.3, 14.7, 16.2, 17.4, 25.5, 28, 35
- 2) Rule-making requirements: Detailed rules in import levies – art. 14.3; Rules on compensatory amounts – art. 25.3
- 3) Legislative action possible: Commission’s measures are immediately applicable but may be referred to the Council by any M/S within three working days, Council amends or repeal by qualified majority, Commission’s measures should stand in case of inaction – art. 21.3

M/S can request the Council to adopt its aid to milk products by unanimity, Commission’s measure is suspended but default condition is the Commission’s measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 23

4) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to milk products, reference to Treaty art. 93.2-3 – art. 23

5) Time limits: Rules on compensatory amounts can be adopted only until 31/12/69 – art. 25.1  
Transitional measures applicable until 28/7/69 – art. 35

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**Number** 368R0805

**Title**

**Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organisation of the market in beef and veal**

**Description: Common organisation of the market in beef and veal**

**Major provisions**

**M = 83**

**Provisions delegating authority**

**D = 21**

**Number of constraints**

**C = 5**

**Provisions delegating authority to M/S**

**Dg = 1**

1) M/S to issue import license – art. 15.1

Not included: intervention agencies to dispose products (no discretion) – art. 7.1; Measures of art. 21 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S**

**Cg = 1**

1) Rule-making requirement: definition of calves – art. 3.3

**Provisions delegating authority to Commission**

**Dc = 19**

1) Commission to adopt intervention measures, prices, products and rules, following procedure art. 27 – art. 6.4

2) Commission to adopt selling prices and conditions for release, following procedure art. 27 – art. 7.2

3) Commission to set rules for private storage aid, following procedure art. 27 – art. 8.2

4) Commission to set rules on import prices and levies, following procedure art. 27 – art. 10.5

5) Commission to fix levies (calves and adult bovine animals) – art. 10.6

6) Commission to set rules on time limits and controls (calves), following procedure art. 27 – art. 11.2

7) Commission to fix coefficients, following procedure art. 27 – art. 12.5

8) Commission to fix levies (meat) – art. 12.6

9) Commission to set rules of application (frozen meat), following procedure art. 27 – art. 13.5

10) Commission to fix levies (frozen meat) – art. 13.6

11) Commission to adopt required measures and rules, following procedure art. 27 – art. 14.4

12) Commission to set rules about licenses, following procedure art. 27 – art. 15.3

13) Commission to fix regularly export refunds, following procedure art. 27 - art. 18.5

14) Commission may alter refund in the intervening period – art. 18.5 second sentence (new Major Provision)

15) Commission to set rules on export refunds, following procedure art. 27 - art. 18.6

16) Commission to adopt necessary and immediately applicable measures in case of disturbances – art. 21.2

17) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to beef and veal, reference to Treaty art. 93.2 – art. 24

18) Extension of Commission's powers to new or modification of M/S aids to beef and veal products, reference to Treaty art. 93.3 – art. 24 (new Major Provision)

19) Commission to adopt transitional measures, following procedure art. 27 – art. 33.1

Not included: Commission to establish an estimate of the meat intended for the processing industry, following procedure of art. 27 (no delegation of powers, only collection of information) – art. 14.2; Application of CCT rules – art. 20.1, 33.2; Commission to set rules for communication and distribution of information, following procedure art. 27 – art. 25

**Number of constraints to Commission**

**Cc = 5**

1) Rule-making requirement: definition of calves – art. 3.3; Rules for intervention measures – art. 6.1, 6.2; Rules for levies – art. 10.1, 10.3, 11.1, 12.1, 12.4, 13

2) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 27 (Management Committee for Beef and Veal) – art. 6.4, 7.2, 8.2, 10.5, 11.2, 12.5, 13.5, 14.4, 15.3, 18.5, 18.6, 33.1

3) Legislative action possible: Commission's measures are immediately applicable but may be referred to the Council by any M/S within three working days, Council amends or repeals by qualified majority, Commission's measures should stand in case of inaction – art. 21.3

M/S can request the Council to adopt its aid to beef and veal by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 24

4) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to beef and veal, reference to Treaty art. 93.2-3 – art. 24

5) Time limit: Transitional measures can be adopted only until 28/7/69 – art. 33.1

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**Number** 368R0827

**Title**

**Regulation (EEC) No 827/68 of the Council of 28 June 1968 on the common organisation of the market in certain products listed in Annex II to the Treaty**

**Description: Common organisation of the market in Treaty Annex II products**

**Major provisions** M = 15

**Provisions delegating authority** D = 5

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 0

Not included: Measures of art. 3 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 4

- 1) Commission to adopt necessary and immediately applicable measures in case of disturbances – art. 3.2
- 2) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to Annex II products, reference to Treaty art. 93.2 – art. 5
- 3) Extension of Commission's powers to new or modification of M/S aids to Annex II products products, reference to Treaty art. 93.3 – art. 5 (new Major Provision)
- 4) Commission to adopt transitional measures, following procedure of art. 6 – art. 9

**Number of constraints to Commission** Cc = 4

- 1) Legislative action possible: Commission's measures are immediately applicable but may be referred to the Council by any M/S within three working days, Council amends or repeal by qualified majority, Commission's measures should stand in case of inaction – art. 3.3

M/S can request the Council to adopt its aid to Annex II products by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 5

- 2) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to Annex II products, reference to Treaty art. 93.2-3 – art. 5

- 3) Executive Action Possible – transitional measures determined following the management committee procedure IIa of art. 26 of Reg. 120/67 (Management Committees), reference in art. 6 – art. 9

- 4) Time Limit: Transitional measures applicable until 30/6/69 – art. 9

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**Number** 368R0950

**Title**

**Regulation (EEC) No 950/68 of the Council of 28 June 1968 on the common customs tariff**

**Description: Common customs tariff**

**Major provisions** M = 4

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

Not included: a general call to inform the Commission of the measures taken, there is no delegation – art. 3

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 368R1017

**Title**

**Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway**

**Description: Application of rules of competition to transport**

**Major provisions**

**M = 85**

**Provisions delegating authority**

**D = 28**

**Number of constraints**

**C = 7**

**Provisions delegating authority to M/S**

**Dg = 2**

1) M/S authorities retain powers to decide cases under articles 2 and 8 until Commission has acted – art. 15

2) M/S to take the necessary measures to assist the Commission – art. 21.6

Note: Article 15 asserts that national authorities remain competent to apply articles 2 and 8, it extends the powers of national authorities that they would have otherwise relinquished as a result of applying article 15.

Not included: M/S authorities to exercise their powers upon Commission's request – art. 20.1 (this is an obligation and it does not delegate power beyond Treaty art. 88)

**Number of constraints to M/S**

**Cg = 2**

1) Time Limit: Powers of M/S to decide cases under articles 2, 8 expire with Commission's action – art. 15

2) Consultation: M/S to consult the Commission while taking measures to assist the Commission – art. 21.6

**Provisions delegating authority to Commission**

**Dc = 25**

1) Commission to address directives and decisions to M/S with regard to public undertakings – art. 9.3

2) Commission to decide that there has been a restrictive practice (article 2) or an abuse of dominant position (article 8) (complaint or own initiative procedure) – art. 11.1

3) Commission to decide cessation of agreements and practices of SME undertakings abusing the exemption from article 2 and incompatible with article 5, reference to art. 4.2 (complaint or own initiative procedure) – art. 11.2

4) Commission to decide the rejection of a complaint (complaint or own initiative procedure) – art. 11.3

5) Commission to decide the non-applicability of article 2 on prohibition of restrictive practices (application of article 5 – non applicability of the prohibition) (complaint or own initiative procedure) – art. 11.4

6) Commission to decide that article 5 is not applicable after 90 days but before the expiry of three years (extension of powers under art. 12.4) (application of art. 5 procedure) – art. 12.3

7) Commission to decide the non-applicability of article 2 on prohibition of restrictive practices (application of article 5 – non applicability of the prohibition) (application of art. 5 procedure) – art. 12.4

8) Commission may renew decision under art. 11.4 and 12.4 – art. 13.2

9) Commission may revoke or amend decisions or prohibit specified acts – art. 13.3

10) Commission to decide not to apply prohibition of article 2 on restrictive practices to agreement reducing disturbances, application of article 6 – art. 14.2

11) Commission may renew the decision under article 14.2 – art. 14.3

12) Commission may revoke or amend decisions or prohibit specified acts under article 14, reference to article 13.3 – art. 14.6

13) Commission may decide to conduct a general inquiry in the sector – art. 18.1

14) Extension of art. 18.1 powers – art. 18.2

15) Extension to general inquiries of powers to request information (article 19), to request national authorities to undertake investigations (article 20) and to conduct investigations (article 21) – art. 18.3

16) Commission may obtain all necessary information from M/S and undertakings (a supporting power of investigation) - art. 19.1

17) Commission to require information by decision if undertakings do not co-operate – art. 19.5

18) Commission can request M/S authorities to undertake investigations – art. 20.1

19) Commission to undertake all necessary investigations – art. 21.1

20) Commission can use the power of decision to undertake investigations – art. 21.3

21) Commission may impose fines by decision if incorrect or misleading information is supplied – art. 22.1

22) Commission may impose fines by decision in case of infringement of art. 2, 8, 13.1, 14.4 – art. 22.2

23) Commission may impose periodic penalty payments by decision – art. 23.1

24) Extension of Commission's powers in case of periodic penalties payments – art. 23.2

25) Commission's power to adopt implementing provisions (more extensive than a simple call for execution, similar to a power to decide procedures) – art. 29

Not included: Initiation of proceedings by the Commission – art. 10

## Number of constraints to Commission

Cc = 7

- 1) Exemption: of small and medium-sized undertakings – art. 4
  - 2) Rule-making requirements: Detailed rules for SME agreements – art. 4.1; Decision under art. 11.4 and 12.4 to be valid for at least six years – art. 13.1; Limits on fines – art. 22.1, 22.2, 23.1
  - 3) Legislative action required: Commission to decide not to apply prohibition of article 2 on restrictive practices to agreement reducing disturbances (application of article 6) only after Council declare by unanimity a state of crisis – art. 6.2; Similar decision by the Council is needed for a renewal of the decision – art. 14.3
  - 4) Reporting requirement: Commission to produce a report for the Council to declare a state of crisis – art. 6.2; Commission to produce a general report on the operation of the regulation – art. 31.2
  - 5) Consultation of the advisory committee prior to decisions under articles 12.3, 12.4, 14.2, 14.3, 29 – art. 16.3; other consultations of the committee, 18.3 (general inquiry), 22.3, 23.3 (fines); article 17 contains a procedure similar to a consultation of the Council that the Commission has to take into account – art. 17.4, 18.3, 22.3  
Consultation of M/S authorities before taking decisions – art. 18.3 (reference to art.21), 21.4, 23.3
  - 6) Public hearing of interested parties: If Commission applies article 5, must publish decision and invite all interested parties to submit comments within 30 days – art. 12.2; Hearing and legal standing of parties and third persons – art. 26.1-3
  - 7) Time Limit: Decisions applying article 6 valid for only three years, cessation within six months of measures under article 6.1 – art. 14.2, 14.5;
- Not included: report after the consultation of the advisory committee, it is not an additional constraint, it is part of consultation – art. 16.6; constraint which does not go beyond Treaty art. 173: specification that Commission decisions are subject to review by the ECJ – art. 15, 19.5, 21.3, 24

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**Number** 368R1174

**Title**

**Regulation (EEC) No 1174/68 of the Council of 30 July 1968 on the introduction of a system of bracket tariffs for the carriage of goods by road between Member States**

**Description: Introduction of a system of bracket tariffs for the carriage of goods by road**

**Major provisions** M = 40

**Provisions delegating authority** D = 8

**Number of constraints** C = 8

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S to fix and amend jointly the tariffs – art. 4.1
- 2) M/S authorities to carry out necessary checks and controls of special contracts – art. 5.4
- 3) M/S authorities may require prior approval of special contracts and adopt measures against violations – art. 5.5
- 4) M/S authorities may require prior approval of special contracts in case of market disturbances – art. 5.6
- 5) M/S to establish institutions in charge of publication of prices and conditions – art. 8.1
- 6) M/S to adopt measures on organization, procedures control instruments and fines (this is more specific than a general call on implementation) – art. 12.1 second paragraph

Not included: national institution to publish information – art. 8.2; General call on implementation and on cooperation among M/S – art. 12.1 first paragraph, 12.3

**Number of constraints to M/S** Cg = 5

- 1) Rule-making requirements : Brackets at 23% - art. 2.2
- 2) Legislative action required: If a M/S objects the imposition of a prior approval of special contracts in case of market disturbances, Council can decide otherwise, M/S measure is suspended meanwhile and is not put into effect until Council's decision – art. 5.7
- 3) Consultation: If a M/S or Commission requires, M/S have to consult each other before adopting measures under article 12.1 – art. 12.2
- 4) Exemption: Types of transports that are exempt – art. 16
- 5) Time Limit: Regulation valid until 31/12/71, with one year extension – art. 17

**Provisions delegating authority to Commission** Dc = 2

- 1) Commission to adopt tariffs (overlap with article 4.1) – art. 4.2b
- 2) Commission to decide conditions and rules of application of art. 7 and 8 – art. 9

Note: Although the conditions and rules of article 9 are on the distribution and exchange of information, these data may have a substantial impact on the working of the transport market, this is why it has been included.

**Number of constraints to Commission** Cc = 7

- 1) Rule-making requirements : Brackets at 23% - art. 2.2
- 2) Executive action required 1: Commission can adopt brackets tariffs only if negotiations between M/S fail and if a M/S requires the Commission action – art. 4.2b
- 3) Consultation: of the specialized Committee – art. 4.2b, 9
- 4) Legislative action possible: Commission's decision is applicable after 20 days, but, in this period, a M/S can require the Council intervention, Council can decide different tariffs within in 20 days (nothing said in case of inaction, Commission's measure likely to stand) – art. 4.2b
- 5) Exemption: Types of transports that are exempt – art. 16
- 6) Time Limit: Regulation valid until 31/12/71, with one year extension – art. 17
- 7) Reporting requirement: Commission to publish a report – art. 8.2

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**Number** 368R1612

**Title**

**Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community**

**Description: Freedom of movement for workers**

**Major provisions**

**M = 80**

**Provisions delegating authority**

**D = 12**

**Number of constraints**

**C = 7**

**Provisions delegating authority to M/S**

**Dg = 8**

- 1) M/S to facilitate the admission of family members – art. 10.2
- 2) M/S to designate specialist services entrusted with organizing work – art. 13.2
- 3) M/S employment services to allow undertakings to offer vacancies to non-M/S workers – art. 16.3d
- 4) M/S specialist services to implement the machinery for vacancy clearance – art. 17.1
- 5) M/S regional services to carry out vacancy clearance and establish direct relations for clearance – art. 17.1a (New Major Provision)
- 6) M/S border regions services to carry out vacancy clearance – art. 17.1b (New Major Provision)
- 7) M/S to adopt measures to give priority to M/S nationals – art. 19.2
- 8) M/S may retain the work permit for statistical purposes – art. 41

Note: article 41 asserts that M/S may retain work permit, this prerogative would have otherwise been relinquished as a result of adopting the regulation.

Not included: Article 8.1 asserts that article 8 shall not affect M/S provisions granting more extensive rights to workers coming from other M/S, this is a ‘no prejudice provision’, prerogatives would have not been otherwise relinquished; Call for co-operation between central employment agencies and between specialized services – art. 13.1, 17.1c; M/S to take measures to inform Community workers in case of disturbances – art. 20.2

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: Rules for the operation of the machinery for vacancy clearance – art. 16
- 2) Time Limit: M/S may retain the work permit only until 31/12/69– art. 41
- 3) Exemption: ECSC and EAEC workers exemption – art. 42

Not included: article 17.1 second sentence asserts that regional and border services may carry out activities only upon authorization of central services and in so far as the organization of a M/S employment services make it possible, this could be considered as a constraint for local authorities (i.e. Executive Action Required 1), however it is not a constraint from a M/S perspective.

**Provisions delegating authority to Commission**

**Dc = 4**

- 1) Commission to decide the suspension of the machinery for vacancy clearance – art. 20.3
- 2) European Co-ordination Office to carry out vacancy clearance – 22.1c
- 3) Commission to set conditions for and organize visits, assignments and advance programmes – art. 23
- 4) Commission to organize visits, assignments and advance programmes – art. 23 (New Major Provision)

Note: Article 23 differs from similar articles in previous legislation because, this time, the Commission is in charge for the organization of the visits.

Not included: Commission to determine rules and uniform criteria for communication and information exchange – art. 14.2; European Co-ordination Office to establish a uniform system of information exchange – art. 15.2; General call upon the Commission to adopt implementing measures – art. 44; European Co-ordination Office has been established with Regulation 15/61 – art. 21

**Number of constraints to Commission**

**Cc = 6**

- 1) Reporting requirement: The Commission to draw up a report on the result of the vacancy clearance – art. 19.1
- 2) Executive Action Required 1: European Co-ordination Office needs agreement of specialist services before carrying out vacancy clearance – 22.1c; Commission to set conditions for and organize visits, assignments and advance programmes in agreement with competent M/S authorities – art. 23
- 3) Legislative action possible: Upon request of a M/S within two weeks, the Council can annul or amend, within two weeks, Commission’s decision to suspend vacancy clearance (nothing said about inaction, but measure is likely to stand) – art. 20.3
- 4) Consultation: Commission set conditions and procedure for visits and programmes on the basis of an opinion of the Technical Committee – art. 23
- 5) Exemption: ECSC and EAEC workers exemption – art. 42
- 6) Rule-making requirements: Rules for the operation of the machinery for vacancy clearance – art. 16

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**Number** 369L0169

**Title**

**Council Directive 69/169/EEC of 28 May 1969 on the harmonisation of provisions laid down by Law, Regulation or Administrative Action relating to exemption from turnover tax and excise duty on imports in international travel**

**Description: Harmonisation of provisions on exemption from turnover tax and excise duty on imports in international travel**

**Major provisions** M = 19

**Provisions delegating authority** D = 6

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 6

1) M/S may reduce article 1 exemption for travellers under fifteen years old (third country travel) – art. 1.2

2) M/S may reduce article 2 exemption for travellers under fifteen years old (M/S travel) – art. 2.2

3) M/S may set lower limits in some cases – art. 5.1

4) M/S may exclude from exemption some goods – art. 5.2

5) M/S may reduce article 4.1a, b quantities of the goods for third country travellers – art. 5.3

6) M/s to take measures to avoid granting tax remission in some cases – art. 6

Not included: M/S may round off the amount in national currency resulting from the conversion – art. 7; General call of implementation – art. 8.1

**Number of constraints to M/S** Cg = 1

1) Rule-making requirements: Detailed rules as regard to values and quantities of goods – art. 1, 2, 4, 5.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 369L0335

**Title**

**Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital**

**Description: Indirect taxes on the raising of capital**

**Major provisions** M = 28

**Provisions delegating authority** D = 12

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 12

1) M/S may tax the supplying of fixed or working capital if the registered office and the effective centre of management are situated in a third country – art. 2.3

2) M/S have the right not to consider some companies for the purpose of charging capital duty – art. 3.2

3) M/S may subject to capital duty some transactions – art. 4.2

4) M/S may postpone the charging of capital duty until the contributions have been effected – art. 5.1a

5) M/S may exclude from basis of assessment the capital contributed by members with unlimited liability – art. 6.1

6) M/S have the right to extend the reduction of capital duty to some cases – art. 7.1b

7) M/S may reduce the rate of capital duty in some cases – art. 7.1c (New Major Provision)

8) M/S may reduce rate after capital is reduced due to losses – art. 7.3

9) M/S may charge capital duty at reduced rate if it subjects to capital duty transactions of article 4.2 – art. 7.4

10) M/S may exempt from capital duty some transactions – art. 8

11) M/S may exempt, reduce or increase rates of some transactions for reasons of fairness, for social considerations or special situations – art. 9

12) M/S may charge some duties – art. 12.1

Not included: general call of implementation – art. 13

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Specification of on what the capital duty should be charged – art. 5.1; Rate of capital duty – art. 7.1; Rule in case of reduction of capital due to losses (four years time span) – art. 7.3

2) Consultation: M/S to consult Commission for measures under article 9, reference to Treaty article 102.1 – art. 9

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 369R0543

**Title**

**Regulation (EEC) No 543/69 of the Council of 25 March 1969 on the harmonisation of certain social legislation relating to road transport**

**Description: Social legislation relating to road transport (crew, driving and rest periods)**

**Major provisions** M = 64

**Provisions delegating authority** D = 6

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S may suspend the application for some drivers – art. 5.5
- 2) M/S may suspend the application for some driver's mates and conductors – art. 5.6
- 3) M/S may apply higher minima or lower maxima – art. 13.1
- 4) M/S may prescribe a further subdivision of the control book details – art. 14.3
- 5) M/S may take all necessary measures to exempt domestic drivers from using the control book – art. 14.4
- 6) M/S to take all necessary measures on issue and control of the books – art. 14.9

Not included: Art. 18.1 is a general call on implementation, but it also specifies measures on organization, procedures control instruments and fines, it is not included because it repeats art. 14.9; general call on mutual assistance between M/S – art. 18.2

**Number of constraints to M/S** Cg = 3

- 1) Rule-making requirements: Rules on crew – art. 5, 6; Rules on driving and rest periods – art. 7, 8, 11
- 2) Consultation: M/S to consult the Commission prior to the adoption of implementing provisions – art. 18.1
- 3) Reporting requirement: M/S to forward information to the Commission so that a report on implementation is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 17.2

**Provisions delegating authority to Commission** Dc = 0

Not included: Commission to draw a standard form of for the communication of information – art. 17.2

**Number of constraints to Commission** Cc = 0

Not included: Exemption: Areas of non applicability – art. 4 (there is no delegation and it is not a constraint for M/S); Reporting requirement: Commission to produce a report – art. 13.2, 17.1 (there is no delegation to Commission)

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**Number** 369R1191

**Title**

**Regulation (EEC) No 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway**

**Description: Public service obligations in transport by rail, road and inland waterway**

**Major provisions** M = 50

**Provisions delegating authority** D = 4

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 4

1) M/S may maintain public service obligations if essential to ensure provision of transport services – art. 1.2

2) M/S may extend period for deciding upon applications (public sector obligations) – art. 6.4

3) M/S may extend period for deciding upon applications (obligations of rates and conditions imposed on the interest of a particular category of persons) – art. 9.2

4) M/S may impose new public service obligations – art. 14.1

Note: Article 1.2 asserts that M/S may maintain obligations, this prerogative would have been otherwise relinquished as a result of adopting article 1.1

Not included: Article 6.2 refers to M/S decision to maintain or terminate a public sector obligation, this is already included in art. 1.2

Not included: M/S to determine compensation for public service obligations – art. 6.2 last sentence; M/S to determine, upon application, the compensation for obligations of rates and conditions imposed on the interest of a particular category of persons – art. 9.1 (these are not powers, rather they are constraints – rule-making requirements or compensation); General call on implementation – art. 18.1

**Number of constraints to M/S** Cg = 5

1) Rule-making requirements (or Compensation): M/S to compensate undertakings for financial burdens due to public sector obligations – art. 1.4, 6.2, 9.1; detailed rules concerning compensation – art. 11.1; compensation for new obligations – art. 13.2

2) Legislative action required: Council approval is needed for extension – art. 6.4, 9.2

3) Time limit: Extension possible until either 1/1/72 or 1/1/73 – art. 6.4; extension until 1/1/72 – art. 9.2

4) Consultation: of the Commission before implementation of measures terminating obligations and affecting trade between M/S – art. 8.2 (the procedure is as such that M/S notify the Commission that might consult other M/S, similar to a consultation constraint on M/S); prior consultation of the Commission before implementation – art. 18.2

5) Appeals procedure: Call to give transport undertakings appropriate representation of their interests – art. 16

**Provisions delegating authority to Commission** Dc = 0

Not included: Commission to request information from M/S – art. 17.1

**Number of constraints to Commission** Cc = 0

Not included: Commission to produce a report – art. 6.6; obligations of rates and conditions imposed on the interest of a particular category of persons are exempt from termination – art. 1.3; Exemption in art. 19.2

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**Number** 369R2603

**Title**

**Regulation (EEC) No 2603/69 of the Council of 20 December 1969 establishing common rules for exports**

**Description: Common rules for exports**

**Major provisions**

**M = 29**

**Provisions delegating authority**

**D = 7**

**Number of constraints**

**C = 6**

**Provisions delegating authority to M/S**

**Dg = 3**

- 1) M/S to take all necessary steps to exercise surveillance over export (a mild control power but that can have considerable economic impact) - art. 5 second sentence (New Major Provision)
- 2) M/S may make, as an interim measure, export of a product subject to export authorization with limits and provisions (same measure as art. 6.1 for Commission) – art. 8.1
- 3) M/S may set quantitative restrictions on exports on grounds of public morality, policy or security etc. – art. 11  
Note: Article 11 extends the power to adopt quantitative restrictions that would have been relinquished as a result of applying article 1.

Not included: M/S to notify the Commission – art. 2

**Number of constraints to M/S**

**Cg = 3**

- 1) Consultation: within the advisory committee, before the introduction of measures – art. 8.2
- 2) Executive Action Possible: M/S setting an export authorization is equivalent to a request for a Commission's decision on the issue, hence the Commission might revoke M/S's decision within five days – art. 8.3 (the default condition is not clearly specified)
- 3) Time limit: M/S may decide on export authorization until 31/12/72 – art. 8.4

**Provisions delegating authority to Commission**

**Dc = 4**

- 1) Commission may request M/S to exercise surveillance over export and specify procedure (a mild control power but that can have considerable economic impact) - art. 5 first sentence
- 2) Commission may make export of a product subject to export authorization with limits and provisions – art. 6.1
- 3) Commission to decide on request of intervention – art. 6.4
- 4) Commission may amend or revoke measures if Council has not acted – art. 9.2a

**Number of constraints to Commission**

**Cc = 4**

- 1) Consultation: within the advisory committee, before the introduction of measures of articles 5-7 – art. 3.2
- 2) Legislative action possible: If Commission rejects a M/S requests for a export authorization, the Council may decide differently by qualified majority – art. 6.4; Any M/S may, within 12 days, refer Commission's measures to the Council that may decide differently by qualified majority – art. 6.5
- 3) Legislative action required: The Commission's decision on export authorization is immediately applicable, but it is revoked if the Council does not adopt measures under article 7 within six weeks – art. 6.6
- 4) Reporting: Commission to deliver a report to the Council if it amends or revokes measures – art. 9.2a

Not included: Exemption in article 10 does not affect the Commission's powers; Products where provisions do not apply in art. 12 is not an exemption as these products enjoys similar prerogatives (export restrictions and licenses), the provision states complementarity

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**Number** 370L0156

**Title**

**Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers**

**Description: Type-approval of motor vehicles and their trailers**

**Major provisions**

**M = 30**

**Provisions delegating authority**

**D = 8**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 6**

1) M/S to approve vehicles types – art. 4.1

2) M/S to take measures to ensure that it is informed of cessation of production or changes of particulars – art. 6.1

3) M/S to request fresh checks or tests to amendments of type-approval certificates – art. 6.3

4) M/S to take the necessary measures to ensure that production models conform to the approved type – art. 8.1

5) M/S to settle between themselves a dispute about failure to conform (similar to a delegation of the power to settle a dispute)– art. 8.3

6) M/S may refuse to register, or prohibit the sale of hazardous vehicles – art. 9

Not included: M/S may ask for further particulars in the certificate of conformity (a simple request of further information) – art. 5.3; Article 8.1 invitation to M/S to take the necessary measures to ensure that production models conform to the approved type is repeated in article 4.2 and 7.2; Power under article 4.1 for M/S to approve vehicles types is repeated in art. 10.1; General call of implementation – art. 15.1

**Number of constraints to M/S**

**Cg = 3**

1) Rule-making requirements: checks to carry out to approve a vehicle type – Annex II

2) Time limit: M/S may refuse to register, or prohibit the sale of hazardous vehicles for a maximum of six months– art. 9

3) Appeal procedure: Parties must be notified of decisions, remedies and time limits – art. 14

**Provisions delegating authority to Commission**

**Dc = 1**

1) Commission to adopt changes to Annexes and some Directive provisions to take account of the technical progress, following procedure of art. 13 – art. 11

**Number of constraints to Commission**

**Cc = 1**

1) Executive Action Required 2: changes to be adopted following the regulatory committee procedure IIIa of art. 13 (Committee on the Adaptation to Technical Progress) - art. 11

Not included: Rule making requirement in the annexes as criteria to modify them are not specified

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**Number** 370R0727

**Title**

**Regulation (EEC) No 727/70 of the Council of 21 April 1970 on the common organisation of the market in raw tobacco**

**Description: Establishment of a common organisation of the market in raw tobacco**

**Major provisions** M = 68

**Provisions delegating authority** D = 13

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 1

1) Intervention agencies to undertake first processing and marketing and conclude contracts – art. 7.1

Not included: Intervention agencies to buy in tobacco (obligation) – art. 5.1, 6.5; Measures under 10.1 are decided by the Commission, M/S are executors;

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 11

1) Commission to set rules on premium and on administrative supervision, following procedure art. 17 – art. 3.3

2) Commission to set rules on fixing of scales, procedures and conditions, following procedure art. 17 – art. 5.6

3) Commission to set rules on fixing of scales, procedures and conditions (derived intervention prices), following procedure art. 17 – art. 6.10

4) Commission to set rules on procedures and conditions of disposal, following procedure art. 17 – art. 7.4

5) Commission to decide the exceptional cases for different calculation of export refund, following procedure art. 17 – art. 9.1

6) Commission to fix export refunds, following procedure art. 17 – art. 9.2

7) Commission may alter the export refund in the intervening period – art. 9.2 last sentence (New Major Provision)

8) Commission to set rules on export refund, following procedure art. 17 – art. 9.5

9) Commission to decide, immediately applicable, measures in case of disturbances – art. 10.2

10) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to tobacco, reference to Treaty art. 93.2 – art. 11

11) Extension of Commission's powers to new or modification of M/S aids to tobacco, reference to Treaty art. 93.3 – art. 11 (new Major Provision)

Not included: Commission to set rules on the communication and distribution of information (only information exchange) following procedure art. 17 – art. 15

**Number of constraints to Commission** Cc = 3

1) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 17 (Management Committee for Tobacco) – art. 3.3, 5.6, 6.10, 7.4, 9.1, 9.2, 9.5

2) Legislative action possible: M/S may refer to Council Commission's measures, within 3 days, Council decides by qualified majority (it does not say but, as in similar legislation, Commission's measure stays in case of inaction) – art. 10.3

M/S can request the Council to adopt its aid to tobacco by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 11

3) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to tobacco, reference to Treaty art. 93.2-3 – art. 11

Not included: Intervention prices should be 90% of norm prices (not included because prices are set by the Council) – art. 2.2; Commission to produce a report (this is not a constraint because it is unrelated to a delegation of powers) – art. 13.1, 13.6 (report on overproduction)

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**Number** 370R0729

**Title**

**Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy**

**Description: Financing of the common agricultural policy**

**Major provisions**

**M = 41**

**Provisions delegating authority**

**D = 9**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 3**

1) M/S to designate and empower authorities to effect expenditure (guarantee section) – art. 4.1

2) M/S to take measures on correct execution of transactions, prevention of irregularities and recovering of sums – art. 8.1

3) M/S to take measures to facilitate supervision – art. 9.1

Not included: M/S to ensure that credits are used without delays and only for refunds and interventions (this is a repetition of art. 8.1 – art. 4.2)

**Number of constraints to M/S**

**Cg = 1**

1) Reporting requirements: National authorities to draw an annual report – art. 4.3

**Provisions delegating authority to Commission**

**Dc = 6**

1) Commission to adopt implementation rules, following procedure art. 13 – art. 4.4

2) Commission to adopt implementation rules concerning transactions and payments (guarantee section), following procedure art. 13 – art. 5.3

3) Commission to set rules on continued applicability of some provisions, following procedure art. 13 – art. 6.4

4) Commission to decide on aid from the Fund (guidance section) – art. 7.1

5) Commission to determine rules for the application of common measures – art. 7.2

6) Commission to carry out inspection on the spot – art. 9.2

Not included: Commission to make available credits to designated authorities – art. 4.2; Commission to decide advance and additional payments – art. 5.2 (these provisions are only concerning the authorization of funds for the guarantee section, no real discretion); Commission to arrange inspections with administrative authorities is part of power of inspection – art. 9.2 last paragraph

**Number of constraints to Commission**

**Cc = 3**

1) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 13 (Committee for the European Agricultural Guidance and Guarantee Fund) – art. 4.4, 5.3, 6.4

2) Consultation: of Fund committee – art. 7.1, 7.2; of Standing Committee on Agricultural Structures – art. 7.2

3) Reporting requirements: Commission to submit a financial report on Fund administration – art. 10

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**Number** 370R1107

**Title**

**Regulation (EEC) No 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway**

**Description: Aids to transport**

**Major provisions**

**M = 12**

**Provisions delegating authority**

**D = 3**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 0**

Not included: Article 77 of the Treaty allows state 'aids which meet the needs of transport co-ordination or which constitute reimbursement for certain obligations inherent in the concept of public utility'. This implies that the extension of Treaty articles 92-4 to state aid to transport by rail, road and inland waterway of article 2 is not an extension of M/S prerogatives that would have otherwise been relinquished.

Similarly, article 3 lists the conditions under which M/S may grant aid on some aspects of co-ordination of transport or aid linked to reimbursement of public sector obligations as already allowed under Treaty art. 77. This article adds conditions it does not delegate further powers or maintain prerogative that would have otherwise been relinquished

**Number of constraints to M/S**

**Cg = 0**

Not included: Reporting requirements: M/S to produce an annual report on aid under art. 4 – art. 5.2

**Provisions delegating authority to Commission**

**Dc = 2**

- 1) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to transport, reference to Treaty art. 93.2 – art. 2
- 2) Extension of Commission's powers to new or modification of M/S aids to transport, reference to Treaty art. 93.3 – art. 2 (new Major Provision)

Note: This is an extension of Commission's powers because Treaty article 77 exempted from Commission's control 'aid [to transport by rail, road and inland waterway] which meet the needs of transport co-ordination or which constitute reimbursement for certain obligations inherent in the concept of public utility'. Article 2 extends Commission's power toward this type of aid, within the limit of this regulation.

**Number of constraints to Commission**

**Cc = 3**

- 1) Legislative action possible: M/S can request the Council to adopt its aid to transport by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 2
- 2) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to transport, reference to Treaty art. 93.2-3 – art. 2
- 3) Exemption: Aids exempted from Commission control – art. 3.1, 3.2, 4

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**Number** 370R1308

**Title**

**Regulation (EEC) No 1308/70 of the Council of 29 June 1970 on the common organisation of the market in flax and hemp**

**Description: Common organisation of the market in flax and hemp**

**Major provisions** M = 30

**Provisions delegating authority** D = 8

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 0

Not included: intervention agencies to give holders of fibres to opportunity to conclude storage contracts (no delegation because such decision is taken by the Commission) – art. 5.1; Measures under 8.1 are decided by the Commission, M/S are executors;

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 7

- 1) Commission to set rules on the system of aid, following procedure art. 12 – art. 4.5
- 2) Commission to take a decision to allow storage contracts in case of imbalances, following procedure art. 12 – art. 5.1
- 3) Commission to set rules on storage contracts, following procedure art. 12 – art. 5.3
- 4) Commission to decide necessary measures in case of imbalances – art. 8.2
- 5) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to flax and hemp, reference to Treaty art. 93.2 – art. 9
- 6) Extension of Commission's powers to new or modification of M/S aids to flax and hemp, reference to Treaty art. 93.3 – art. 9 (new Major Provision)
- 7) Commission to adopt transitional measures, following procedure art. 12 – art. 16

Not included: Commission to determine information and procedures for communication and information exchange – art. 10

**Number of constraints to Commission** Cc = 5

1) Reporting requirements: Commission to submit an annual report assessing aid – art. 4.2

1) Executive Action Possible: rules and decisions to be adopted following the management committee procedure IIa of art. 12 (Management Committee for Flax and Hemp) – art. 4.5, 5.1, 5.3, 16

3) Legislative action possible: M/S may refer to Council Commission's measures, within 3 days, Council decides by qualified majority (it does not say, but as in similar legislation, Commission's measure stand in case of inaction) – art. 8.3

M/S can request the Council to adopt its aid to flax and hemp by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 9

4) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to flax and hemp, reference to Treaty art. 93.2-3 – art. 9

5) Time limit: Transitional measures can be adopted only until 31/7/71

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**Number** 370R1463

**Title**

**Regulation (EEC) No 1463/70 of the Council of 20 July 1970 on the introduction of recording equipment in road transport**

**Description: Recording equipment in road transport**

**Major provisions**

**M = 39**

**Provisions delegating authority**

**D = 8**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 8**

- 1) M/S to grant (or refuse) EEC approval to recording equipment and model record sheet – art. 7
- 2) M/S to take necessary measures to ensure production models conform to the approved prototype – art. 10.1
- 3) M/S to settle between themselves a dispute about failure to conform (similar to a delegation of the power to settle a dispute)– art. 10.2
- 4) M/S to approve fitters and workshops and authorise them to undertake checking and inspection – art. 14.1
- 5) M/S may take the necessary measures to reduce to a minimum of two days the keeping of the record sheet for national transport operations – art. 17.6
- 6) M/S may prohibit use of the vehicle in cases where breakdown or faulty operation has not been put right (extension of powers under article 21.1) – art. 18.1
- 7) M/S may prescribe installation and use of recording equipment that has received national approval – art. 20.1
- 8) M/S to take necessary measures on reorganization of, procedures for and means of carrying out checks and penalties (more specific than a general call of implementation) – art. 21.1

Not included: M/S to issue EEC approval mark to approved recording equipment and model record sheet – art. 8.1; M/S may bring forward dates of implementation, only anticipation of implementation – art. 19; general call on provision on the mutual assistance of implementation of the regulation, it also repeats art. 21.1 – art. 21.2

**Number of constraints to M/S**

**Cg = 4**

- 1) Rule-making requirement: EEC approval needs to conform to Annex I requirements – art. 7; M/S may reduce to a minimum of two days the keeping of the record sheet for national transport operations – art. 17.6
- 2) Appeal procedure: Parties must be notified of decisions, remedies and time limits – art. 13
- 3) Consultation: To hear the views of the manufacturers prior to appoint fitters and workshops – art. 14.1; of the Commission - art. 21.1
- 4) Time Limit: M/S may prescribe installation and use of recording equipment that has received national approval only until 1/1/80 – art. 20.2

**Provisions delegating authority to Commission**

**Dc = 0**

Not included: Commission to assign by regulation to Luxembourg a special number of EEC approval mark – art. 8.2

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption of article 3 because there is no delegation to Commission and it is not a constraint to M/S

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**Number** 370R2141

**Title**

**Regulation (EEC) No 2141/70 of the Council of 20 October 1970 laying down a common structural policy for the fishing industry**

**Description: Common structural policy for the fishing industry**

**Major provisions** **M = 26**

**Provisions delegating authority** **D = 4**

**Number of constraints** **C = 2**

**Provisions delegating authority to M/S** **Dg = 3**

1) M/S to ensure equality of conditions of entry and exploitation of domestic waters– art. 2.1

2) M/S may limit equality of conditions for certain types of catches – art. 3.1

3) M/S may grant financial aid pursuing objectives of common measures of article 10 – art. 9.1

Not included: General call on co-ordination of fisheries policy – art. 6.1

**Number of constraints to M/S** **Cg = 2**

1) Rule-making requirement: M/S may limit equality of conditions for certain types of catches only within 3 miles – art. 4.1

2) Time limit: M/S may limit equality of conditions for certain types of catches for only five years – art. 4.1

**Provisions delegating authority to Commission** **Dc = 0**

Not included: Commission to set the methods for information exchange – art. 6.2;

**Number of constraints to Commission** **Cc = 0**

Not included: Commission to produce a report in the structure of fishery policy (no Commission delegation)– art. 7

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**Number** 370R2142

**Title**

**Regulation (EEC) No 2142/70 of the Council of 20 October 1970 on the common organisation of the market in fishery products**

**Description: Common organisation of the market in fishery products**

**Major provisions** M = 95

**Provisions delegating authority** D = 27

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 7

- 1) M/S to carry out checks of conformity of fishery products – art. 4.1
- 2) MS/ to adopt all necessary measures to punish infringements – art. 4.2
- 3) M/S may grant aid to facilitate the constitution and functioning of organizations of producers – art. 6.1
- 4) M/S may grant loans for expenses linked to the intervention funds – art. 6.2
- 5) M/S to grant financial compensation to organizations of producers that have carried out intervention in some products (Annex I, lists A and C)– art. 10.1
- 6) M/S may maintain quantitative restrictions to third countries products listed in annex IV, list A and C – art. 17.3
- 7) M/S to take measures to ensure equality of conditions of access to ports and facilities – art. 23.2

Note: Measures under art. 17.3 would expire according to art. 17.2; while the provision that M/S may maintain aid to facilitate transition of already established organization (art. 6.3) does not extent powers to be relinquished nor measures that would have expired.

Not included: M/S to guarantee the purchase of products during serious crises – art. 11.2; Protective measures of art. 20 are decided by the Commission, M/S are mere executors with no discretion; Delegation of powers to national organizations of producers is not included as they are not state institutions: National organizations of producers can decide that the obligation to sell does not apply if the selling follows already established common rules – art. 5.1; National organizations of producers can set withdrawal prices – art. 7.1; National organizations of producers can grant an indemnity to producers – art. 7.1 second paragraph; National organization of producers to set up intervention funds – art. 7.3

**Number of constraints to M/S** Cg = 3

- 1) Spending limit: Aid cannot be more than 3%, 2% or 1% of the value of production and 60%, 40% and 20% of the administrative costs – art. 6.1, 6.3; Limits to financing intervention funds – art. 10.1c, 10.3
- 2) Time limit: Aid for only 3 or 5 years – art. 6.1, 6.2, 6.3
- 3) Reporting requirements: M/S to produce a report on the aid granted – art. 6.4

**Provisions delegating authority to Commission** Dc = 19

- 1) Commission to adopt measures of technical adjustment of common marketing rules, following procedure art. 29 – art. 3
- 2) Commission to adopt measures of application of checks, following procedure art. 29 – art. 4.4
- 3) Commission to set a maximum withdrawal price, following procedure art. 29 – art. 7.1 third paragraph
- 4) Commission to adopt measures of application of withdrawal prices and intervention funds, following procedure art. 29 – art. 7.5
- 5) Commission to adopt measures of application and representative markets and ports, following procedure art. 29 – art. 9.3
- 6) Commission to adopt measures of application and withdrawal prices in some products (Annex I, lists A and C), following procedure art. 29 – art. 10.5
- 7) Commission to set rules on intervention in periods of serious crises, following procedure art. 29 – art. 11.5
- 8) Commission to adopt measures of application and representative markets and ports, following procedure art. 29 (products of annex II) – art. 13.4
- 9) Commission to set rules on amount and duration of aids to private storage and conditions for de-storage, following procedure art. 29 (products of annex II) – art. 14.3
- 10) Commission to adopt measures of application and representative markets and ports, following procedure art. 29 (products of annex III list A) – art. 15.6
- 11) Commission to adopt measures of application related to reference prices and suspension or limitation of imports, following procedure art. 29 – art. 18.6
- 12) Commission to adopt, modify or amend import levies, following procedure art. 29 – art. 18.6 second paragraph (New Major Provision)
- 13) Commission to decide upon the necessary and immediately applicable measures in case disturbances – art. 20.2
- 14) Commission to fix export refunds at regular intervals, following procedure of art. 29 – art. 21.4
- 15) Commission may alter refunds in the intervening period – art. 21.4 last sentence (New Major Provision)
- 16) Commission to set rules for export refunds, following procedure of art. 29 – art. 21.5
- 17) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to fishery products, reference to Treaty art. 93.2 – art. 24
- 18) Extension of Commission's powers to new or modification of M/S aids to fishery products, reference to Treaty art. 93.3 – art. 24 (new Major Provision)

19) Commission to adopt transitional measures, following procedure of art. 29 – art. 31

Note: measures of application = rules

Not included: Article 18.6 third paragraph asserts that Commission measures under 18.6 second paragraph are immediately applicable before committee's meeting, it does not extend Commission's powers; Commission to set rules for the exchange of information, following procedure art. 29 – art. 27

**Number of constraints to Commission**

**Cc = 6**

1) Executive Action Possible – rules and measures to be adopted following the management committee procedure IIa of art. 29 (Management Committee for Fishery Products) – art. 3, 4.4, 7.1 third paragraph, 7.5, 9.3, 10.5, 11.5, 13.4, 14.3, 15.6, 18.6, 18.6 second paragraph, 21.4, 21.5, 31

2) Rule making-requirements: Rules for the adoption of withdrawal, reference and entry prices – art. 10.4, 14.1, 18.2, 18.3; Countervailing charges – art. 18.4

3) Reporting requirement: Commission to produce a report – art. 12.1

4) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 20.3

M/S can request the Council to adopt its aid to fishery products by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 24

5) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to fishery products, reference to Treaty art. 93.2-3 – art. 24

6) Time Limit: Transitional measures are applicable of one year only after implementation of the regulation – art. 31

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**Number** 371L0304

**Title**

**Council Directive 71/304/EEC of 26 July 1971 concerning the abolition of restrictions on freedom to provide services in respect of public works contracts and on the award of public works contracts to contractors acting through agencies or branches**

**Description: Abolition of restrictions on freedom to provide services in respect of public works contracts**

**Major provisions** M = 8

**Provisions delegating authority** D = 2

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 2

- 1) M/S to ensure that beneficiaries may obtain credit, aid and subsidy for the carrying out of works under the same conditions as nationals – art. 3.2a
- 2) M/S to ensure that beneficiaries have access to the supply of facilities controlled by the state under the same conditions as nationals – art. 3.2b (New Major Provision)

Not included: articles 1 and 3 contains obligations to abolish discriminations, there is no delegation; General call of implementation – art. 4

**Number of constraints to M/S** Cg = 1

- 1) Rule requirements: Detailed list of the measures to be abolished – art. 3.1

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption in article 2.1 because there is no delegation

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**Number** 371L0305

**Title**

**Council Directive 71/305/EEC of 26 July 1971 concerning the co-ordination of procedures for the award of public works contracts**

**Description: Procedures for the award of public works contracts**

**Major provisions**

**M = 51**

**Provisions delegating authority**

**D = 16**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 16**

- 1) National authorities to apply their national procedures in awarding public works contracts (as adapted to this directive's provisions) - art. 2
- 2) National authorities may adopt a special award procedure for public housing schemes – art. 6
- 3) National authorities may award contracts without applying the provisions in some cases – art. 9
- 4) National authorities may define technical specifications by reference to national standards – art. 10.1
- 5) National authorities may apply shorter time limits in cases of urgency – art. 15
- 6) National authorities may publish notices for contracts of value above 0.5 units of account – art. 19
- 7) National authorities may require groups to assume a specific legal form – art. 21
- 8) National authorities to select the candidate invited for tender in the restricted procedure – art. 22
- 9) M/S to ensure that authorities issue invitations under the same conditions to nationals – art. 22 second paragraph (New Major Provision)
- 10) M/S to designate authorities competent to issue documents – art. 23 last paragraph
- 11) National authorities may request to prove enrolment in the professional or trade register – art. 24
- 12) National authorities to specify further references of financial and economic standing to be produced – art. 25
- 13) National authorities may invite contractors to supplement documents – art. 27
- 14) National authorities may require an additional certificate for social security if a contract is offered – art. 28.3
- 15) National authorities may retain national price criterion – art. 29.3
- 16) National authorities may reject tenders that it considers to be abnormally low – art. 29.5

Note: Powers under articles 24, 25, 27, 28.3 are power to request information, they are considered as complementary to the power to select candidate and award contracts; Art. 10.1 on technical specification does not specify competent authorities, however it is obvious from the text. Article 29.3 allows national authorities to retain national price criterion, this prerogative would otherwise have been relinquished as a result of applying art. 29.1.

Not included: Provision in article 2 is repeated for concessionaire in art. 3.2; Contracts to be awarded on the basis of specific criteria (constraint, art. 2 already specifies that authorities must apply their national procedures) – art. 20 Contractors may be excluded following articles 23a-g (this repeats the power to award contract and select candidate in articles 2 and 22) – art. 23; National authorities to issue certificate of registration – art. 28.2; General call for the adoption of measures – art. 32;

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: Procedures to be applied to public works contract with value above 1m units of account (it can be seen as an exemption for contract below that value, but for M/S it is better to be seen as constraint on their rules for awarding contracts) – art. 7.1; Additional works awarded without following the procedure should not exceed 50% of the value of original contract – art. 9f; Technical specification of Annex II and referred in art. 10.1; Rules on advertising – art. 13-7; Rules on the shorter time limits in cases of urgency – art. 15; Criteria for selection of contractors and award of contract – art. 23, 25, 26, 29;
- 2) Time Limit: National authorities can apply the procedure for repetition of similar works, hence avoiding the procedure set by the directive, during the three years following the conclusion of the original contract – art. 9f; National authorities may retain national price criterion for three or seven years after adoption of directive – art. 29.3
- 3) Reporting requirements: M/S to supply to the Commission every June a statement of the value and total number of contracts awarded following art. 9 – art. 9 last paragraph; National authorities to justify (similar to presenting a report) to the advisory committee the rejection of low-priced tenders – art. 29.5

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption: in art. 3.1, 3.4, 3.5, 4, 7.1, 29.4

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**Number** 371R0974

**Title**

**Regulation (EEC) No 974/71 of the Council of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States**

**Description: Monetary Compensation Amounts (MCAs) in agriculture**

**Major provisions** M = 15

**Provisions delegating authority** D = 5

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 2

1) M/S may charge on imports or grant on exports compensatory amounts – art. 1.1

2) M/S may, on interim, make imports dependent on the lodging of a deposit – art. 5

Note: article 1.1 asserts that M/S are authorized to charge on imports or grant on exports compensatory amounts, the fact that this is delegation of powers is also specified in the preambles.

**Number of constraints to M/S** Cg = 2

1) Rule-making requirement: Use of compensatory amounts only if currency fluctuates by a margin wider than international rules and only to some products – art. 1; Constraints on the MCAs – art. 2, 4

2) Time limit: M/S may make imports dependent on the lodging of a deposit only until compensatory amounts are charged – art. 5

**Provisions delegating authority to Commission** Dc = 3

1) Commission to alter compensatory amounts – art. 3

2) Commission to set rules for the application, following procedure art. 6.1 – art. 6.1

3) Commission to set rules on the fixing of MCAs, following procedure art. 6.1 – art. 6.2

**Number of constraints to Commission** Cc = 3

1) Rule-making requirement: Commission can alter compensatory amounts only for changes greater than 1% – art. 3; Use of compensatory amounts only if currency fluctuates by a margin wider than international rules and only for some products – art. 1; Constraints on the MCAs – art. 2, 4

2) Executive Action Possible – rules and MCAs to be determined following the management committee procedure IIa of art. 26 of Reg. 120/67 (Management Committee for Cereals or any other Management Committee) – art. 6.1, 6.2

3) Reporting requirement: Commission to submit a report in the application of the regulation – art. 8.3

Not included: Time limit: Regulation ceases to be applicable when M/S apply international rules on exchange rates margins around official parity (not date specified not possible to predict) - art. 8.2

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**Number** 371R1408

**Title**

**Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community**

**Description: Social security schemes for employed persons and their families**

**Major provisions** M = 233

**Provisions delegating authority** D = 40

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 35

- 1) M/S may conclude conventions based on the principles of this regulation – art. 8.1
- 2) National institutions may invoke provisions for suspension, reduction or withdrawal of benefits even though the benefit was acquired under another M/S (general prevention of benefits overlapping) – art. 12.2
- 3) National institutions may invoke provisions for suspension, reduction or withdrawal of invalidity or old-age benefits linked to professional or trade activity even though the activity was pursued in another M/S – art. 12.3
- 4) M/S authorities to give consent to prolong the posting of workers beyond twelve months – art. 14.1a ii
- 5) M/S may provide exceptions for certain categories of workers – art. 17
- 6) Institution of the place of residence may provide cash benefits on behalf of the competent institution (sickness and maternity, residence outside the competent state) – art. 19.1b
- 7) Competent institution to authorize the entitlement of benefits for frontier workers or prior agreement between States is necessary (sickness and maternity) – art. 20
- 8) Competent institution to authorize persons with entitlements the return or transfer to M/S of residence (sickness and maternity) – art. 22.1b
- 9) Competent institutions to authorize persons to receive treatment in another M/S (sickness and maternity) – art. 22.1c (New Major Provision)
- 10) Institution of the place of stay or residence may provide cash benefits on behalf of the competent institution (sickness and maternity, stay outside the competent state) – art. 22.1c ii (new Major Provision)
- 11) Institution of M/S where unemployed seeks employment may provide cash benefits on behalf of the competent institution (sickness and maternity, unemployment) – art. 25.1b
- 12) Competent institution may extend the period for the entitlement of benefits (sickness and maternity, unemployment) – art. 25.4
- 13) Institution may take account of period of provision of benefits in another M/S while computing the maximum period for granting benefits (sickness and maternity) – art. 35.3
- 14) M/S may provide for other methods of reimbursement or waive them (sickness and maternity) – art. 36.3
- 15) M/S institution where invalidity occurred to determine if conditions are satisfied (invalidity) – art. 39.1
- 16) Competent institution to determine the amount of benefit according to its legislation (invalidity), reference to Chapter 3, hence article 46.1 – art. 40.1
- 17) Institution to take decision on the degree of invalidity which are binding on any M/S (invalidity) – art. 40.3
- 18) Institution responsible for providing invalidity benefits may calculate benefits following art. 49.1a (conversion of invalidity into pensions benefits) – art. 43.3
- 19) Competent institution to determine the amount of benefit according to its legislation (pensions) – art. 46.1
- 20) Institution of the place of residence may provide cash benefits on behalf of the competent institution (work accidents and diseases, residence outside the competent state) – art. 52b
- 21) Competent institution to authorize persons with entitlements the return or transfer to M/S of residence (work accidents and diseases) – art. 55.1b
- 22) Competent institutions to authorize persons to receive treatment in another M/S (work accidents and diseases) – art. 55.1c (New Major Provision)
- 23) Institution of the place of stay or residence may provide cash benefits on behalf of the competent institution (work accidents and diseases, stay outside the competent state) – art. 55.1c ii (new Major Provision)
- 24) Competent institution to give prior authorization for transport of persons entitled for such benefits (work accidents and diseases) – art. 59.1
- 25) Institution may take into account the period in which benefits have been provided in another M/S when computing the maximum duration of benefits (work accidents and diseases) – art. 62.2
- 26) M/S may provide for other methods of reimbursement or waive them (work accidents and diseases) – art. 63.3
- 27) Competent institution may authorize departure before the four weeks period (unemployment) – art. 69.1a
- 28) Competent institution may prolong the period where the worker is not available for work in a M/S (unemployment) – art. 69.1b (New Major Provision)
- 29) Competent institution may prolong the three month period where the worker is entitled for benefits after leaving a M/S (unemployment) – art. 69.2
- 30) M/S may provide for other methods of reimbursement or waive them (unemployment) – art. 70.3
- 31) M/S may decide that the competent institution grant family allowances to the relevant person either directly or through the institution of residence – art. 75.1c
- 32) Competent institution may request medical checks to be carried out in another M/S – art. 87.1

- 33) Competent authorities to decide with the other M/S authorities the measures to carry out transfers – art. 88  
34) National institution may collect contributions in the territory of another M/S – art. 92.1  
35) M/S may agree between themselves the methods for the collection of contributions – art. 92.2

Note: Article 12.2-3 does not specify but it is obvious that suspension is invoked by competent institutions  
Not included: General call of implementation – art. 84.2

**Number of constraints to M/S**

**Cg = 3**

1) Rule-making requirements: Detailed rules on definitions (e.g. seasonal and frontier worker)– art. 1; Rules on competent institution’s authorization to move – art. 22.2, 55.2; Rules on cash benefits – art. 23; Rules on the award of pension benefits – art. 46.2, 47-50

2) Time limit: Prolongation of the posting of workers shall not exceed twelve months – art. 14.1a; Extension of the period for the entitlement of benefits within the time limit fixed by the legislation administered by the institution (unemployment) – art. 25.4

3) Appeals procedure: Expedition of the appeal procedure and review process, appeal against the institution of a M/S can be filed through the institution of another M/S with the same time constraints – art. 86

Not included: the power to conclude agreements and conventions in articles 8.1, 17 needs the agreement of another M/S, hence executive action is required, this is however not additional to normal practices of agreements between states; workers are entitled of three months unemployment benefit after leaving the M/S – art. 69.1c

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included; Exemption (because there is no delegation) – art. 4.3, 4.4, 7

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**Number** 371R1696

**Title**

**Regulation (EEC) No 1696/71 of the Council of 26 July 1971 on the common organisation of the market in hops**

**Description: Common organisation of the market in hops**

**Major provisions**

**M = 60**

**Provisions delegating authority**

**D = 21**

**Number of constraints**

**C = 7**

**Provisions delegating authority to M/S**

**Dg = 7**

- 1) M/S to designate bodies in charge of registering contracts – art. 6.1
- 2) M/S to recognize producers groups and unions – art. 7.3
- 3) M/S may grant aid to recognized producer groups to encourage formation and facilitate operation – art. 8
- 4) M/S may grant aid to recognized producer groups to change varieties and organizing gardens – art. 9
- 5) M/S to designate bodies in charge of registering areas and to control and update the registration – art. 13.1
- 6) M/S may consider a recognized producer group as a single producer for the granting of aids to registered areas - art. 13.2
- 7) M/S may maintain aid to hop producers – art. 16 second paragraph

Note: Article 16 extends the possibility of granting aid that would otherwise have expired as a result of applying article 16.

Not included: Protective measures of art. 15 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S**

**Cg = 4**

- 1) Reporting requirements: M/S to periodically provide the Commission with statistical information on the registration of contracts – art. 6.3
- 2) Rule-making requirements: Rules on the recognition of producers groups and unions – art. 7.3
- 3) Time limit: M/S may grant aid to recognized producer groups for three year – art. 8; M/S may grant aid until 31/12/75 – art. 9; M/S may maintain aid to hop producers only during period of validity of contracts stipulated before entry into force of regulation – art. 16; M/S have ten years to grant aid to producer groups – art. 17.6
- 4) Spending limit: Aid cannot be more than 3%, 2% or 1% of the value of production and 60%, 40% and 20% of the administrative costs – art. 8; M/S may grant aid to a maximum of 1500 units of account – art. 9; Maintained aid to hop producers might not exceed Community aid – art. 16

**Provisions delegating authority to Commission**

**Dc = 13**

- 1) Commission to adopt measures derogating from article 3.1, following procedure art. 20 – art. 3.2
- 2) Commission to define the standard quality for hops, following procedure art. 20 – art. 4.2
- 3) Commission to verify equivalence of attestations of imported products, following procedure art. 20 – art. 5.2
- 4) Commission to set rules on imported products, following procedure art. 20 – art. 5.3
- 5) Commission to set rules on supply contracts, following procedure art. 20 – art. 6.5
- 6) Commission to set rules on recognition of producer groups and unions, following procedure art. 20 – art. 7.5
- 7) Commission to set rules on granting aids, following procedure art. 20 – art. 10.2
- 8) Commission to set rules on granting aids to registered areas, following procedure art. 20 – art. 13.4
- 9) Commission to decide on protective measures in case of disturbances – art. 15.2
- 10) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to hops, reference to Treaty art. 93.2 – art. 16 first paragraph
- 11) Extension of Commission's powers to new or modification of M/S aids to hops, reference to Treaty art. 93.3 – art. 16 first paragraph (new Major Provision)
- 12) Commission to set rules for reimbursement, following procedure art. 13 of Reg. 729/70 – art. 17.7
- 13) Commission to adopt transitional measures, following procedure art. 20 – art. 23

Not included: Commission to set rules for communication and information, following procedure art. 20 (only information exchange) – art. 18

**Number of constraints to Commission**

**Cc = 6**

- 1) Executive Action Possible – rules and measures to be adopted following the management committee procedure IIa of art. 20 (Management Committee for Hops) – art. 3.2, 4.2, 5.2, 5.3, 6.5, 7.5, 10.2, 13.4, 23  
rules to be adopted following the management committee procedure IIa of art. 13 of Reg. 729/70 (Committee for the European Agricultural Guidance and Guarantee Fund) – art. 17.7
- 2) Rule-making requirements: Rules on the recognition of producers groups and unions – art. 7.3; Rules for reimbursement – art. 17.3
- 3) Reporting requirement: Commission to submit an annual report on production and marketing of hops – art. 11
- 4) Legislative action possible : Commission’s protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission’s measure should stand in case of inaction) – art. 15.3  
M/S can request the Council to adopt its aid to hops by unanimity, Commission’s measure is suspended but default condition is the Commission’s measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 16 first paragraph
- 5) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to hops, reference to Treaty art. 93.2-3 – art. 16 first paragraph
- 6) Time limit: transitional measures will remain applicable until 31/7/72 – art. 23

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**Number** 371R2821

**Title**

**Regulation (EEC) No 2821/71 of the Council of 20 December 1971 on application of Article 85 (3) of the Treaty to categories of agreements, decisions and concerted practices**

**Description: Commission can exempt R&D and specialisation agreements and practices from application of Treaty art. 85.3**

**Major provisions** M = 12

**Provisions delegating authority** D = 3

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 0

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 3

1) Commission may, by regulation, exempt R&D and specialization agreements from Treaty art. 85.1 – art. 1.1

2) Commission's power to repeal and amend regulations where circumstances have changed – art. 2.2

3) Commission may withdraw the benefit of application of a art. 1.1 regulation and issue a decision – art. 7

**Number of constraints to Commission** Cc = 3

1) Rule-making requirements – Criteria on the type of agreement and practices that can be exempted – art. 1.1

2) Public hearings of interested parties – Persons to submit comments before the adoption of a regulation – art. 5

1) Consultation: of the Advisory Committee on Restrictive Practices and Monopolies – art. 6.1. 6.2

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**Number** 372L0156

**Title**

**Council Directive 72/156/EEC of 21 March 1972 on regulating international capital flows and neutralizing their undesirable effects on domestic liquidity**

**Description: Measures on international capital flows and protection of domestic liquidity**

**Major provisions** M = 5

**Provisions delegating authority** D = 2

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 2

1) M/S to take steps to ensure that monetary authorities have available various instruments and are able to put them in operation immediately – art. 1

2) M/S to apply all or some of the instruments of article 1 – art. 2.2

Not included: General call on implementation – art. 2.1

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included; Commission to keep Council informed on the situation (no delegation) – art. 2.3

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**Number** 372L0159

**Title**

**Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms**

**Description: Aid to modernize farms**

**Major provisions**

**M = 63**

**Provisions delegating authority**

**D = 24**

**Number of constraints**

**C = 9**

**Provisions delegating authority to M/S**

**Dg = 18**

- 1) M/S to introduce a system of selective incentives to farms – art. 1.1
  - 2) M/S may vary aid according to regions – art. 1.2
  - 3) M/S to define farming as main occupation – art. 3.1
  - 4) M/S to lay down the criteria for assessing occupational skill and competence of a farmer – art. 3.2
  - 5) M/S may take into account social security disparities when assessing farmers income – art. 4.2
  - 6) M/S to specify man-work units, adequate return and modernization objectives – art. 4.4a
  - 7) M/S may provide that income at the end of the plan may consist of non-agricultural activities – art. 4.4b (New Major Provision)
  - 8) M/S may extend time limit of the development plan for certain regions – art. 4.6
  - 9) M/S to appoint authorities examining plans and lay down examination and approval procedure – art. 7
  - 10) M/S may extend or reduce period for interest rate subsidy and choose form of subsidy – art. 8.2
  - 11) M/S may increase subsidy rate and lower payable rate – art. 8.2 second paragraph (New Major Provision)
  - 12) M/S to introduce incentives to encourage the keeping of accounts – art. 11.1
  - 13) M/S to grant a launching aid to contribute to management costs – art. 12
  - 14) M/S to determine legal form and cooperation provisions of recognized groups – art. 12 last paragraph (New Major Provision)
  - 15) M/S to introduce national aids and adapt existing aid for cessation of farming, irrigation, land reparacling and related works – art. 13.1
  - 16) M/S may grant aid to farms not satisfying conditions of article 2 and 4, temporary and special aid – art. 14.2
  - 17) Luxembourg may maintain national measures – art. 23
  - 18) M/S may lay down additional conditions for the implementation of the measures – art. 24
- Note: The wording of article 23 is as such that Luxembourg measures would expire as a result of adopting this act, the provision extends this prerogative for three years.

Not included: General call on implementation – art. 25

**Number of constraints to M/S**

**Cg = 6**

- 1) Rule-making requirement: Rules on definition of farmers and on farmers entitled to aid – art. 2, 3.1, 4.1-3; Income from non-agricultural activities at the end of plan not to exceed 20% – art. 4.4b; Other rules on income and development plan – art. 4.5, 4.6; Rules on approval of plans – art. 8.1, 9.1, 9.2; Rules on keeping accounts – art. 11.2
  - 2) Spending limit: Interest rate subsidy limited to 80% - art. 2.2; Interest rate subsidy up to 40,000 unit of account, max of 5% and 15 years, payable interest 3% – art. 8.2 ; Limits on aid to pig farming to 40,000 unit of account - art. 9.2; Aid of 450 units of account to keep accounts – art. 11.1; Limit on launching aid – art. 12; Interest payable of at least 5% on aid granted to farms not satisfying conditions of article 2 and 4, and reference to art. 8 – art. 14.2, 14.2a;
  - 3) Time limit: Limits on time of interest rate subsidy – art. 8.2; Temporary aid limited to five years – art. 14.2a; Luxembourg to maintain national measures until 31/12/75– art. 23
  - 4) Executive action required 1: M/S needs Commission and Standing Committee authorization for extension of time limit of development plan, following procedure art. 18 – art. 4.6  
M/S needs a favorable decision from the Commission and the Standing Committee to have their measures eligible for Community financial contribution – art. 20.1
  - 5) Legislative action required: M/S needs Council approval for increase of interest rate subsidy and lowering of payable rate – art. 8.2 second paragraph;  
Granting of aid to poultry and eggs needs approval from the Council – art. 9.3
  - 6) Reporting requirement: M/S to submit to the Commission an explanatory memorandum of the measures taken and planning to take – art. 17.2
- Not included: Time Limit of six years of development plans – art. 4.6

**Provisions delegating authority to Commission****Dc = 7**

- 1) Commission to authorize M/S to extend time limit of development plan, following procedure art. 18 – art. 4.6
- 2) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to construction and transfer of farm buildings, reference to Treaty art. 93.2 – art. 14.1
- 3) Extension of Commission's powers to new or modification of M/S aids to construction and transfer of farm buildings, reference to Treaty art. 93.3 – art. 14.1 (new Major Provision)
- 4) Commission to decide whether M/S adopted measures satisfy conditions for Community financial contribution, following procedure art. 18 – art. 18.1
- 5) Commission to set rules for the application of spending limits, following procedure of art. 13 of Regulation 729/70 – art. 19.4
- 6) Commission to decide on granting of aid from the Fund (guidance section), reference to art. 7.1 of Regulation 729/70 – art. 21.2
- 7) Commission to set rules on reimbursement, following procedure art. 13 of Regulation 729/70 – art. 21.4

Not included: Commission to issue an opinion on M/S draft measures – art. 17.3; Commission to authorize payment on account (no delegation of power) – art. 21.3

**Number of constraints to Commission****Cc = 6**

- 1) Rule-making requirement: Rules on granting Community aid – art. 13.2, 19
- 2) Spending limit: Community contribution not to exceed 150-250 units of account and 25% of M/S expenditure – art. 19.3
- 3) Executive Action Possible – authorization and decision to be given following the management committee procedure IIa as referred in art. 18 (Standing Committee on Agricultural Structures) – art. 4.6, 18.1  
rules to be adopted following the management committee procedure IIa of art. 13 of Reg. 729/70 (EAGGF Committee) – art. 19.4, 21.4
- 4) Consultation: Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to construction and transfer of farm buildings, reference to Treaty art. 93.2-3 – art. 14.1

Consultation of the EAGGF Committee when Commission decides whether M/S adopted measures satisfy conditions for Community financial contribution, and the granting of aid (see reference to art. 7.1 of Reg. 729/70) – art. 18.1, 21.2

- 5) Reporting requirement: Commission to submit an annual report on national and Community measures – art. 22.1
- 6) Legislative action possible: M/S can request the Council to adopt its aid to construction and transfer of farm buildings by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 14.1

Not included: Spending limit: Estimated total contributions – art. 16.3; Time limit: Estimated time of common measures is ten years – art. 16.1

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**Number** 372L0160

**Title**

**Council Directive 72/160/EEC of 17 April 1972 concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement**

**Description: Measures to encourage the cessation of farming and the reallocation of utilized agricultural area**

**Major provisions**

**M = 42**

**Provisions delegating authority**

**D = 18**

**Number of constraints**

**C = 8**

**Provisions delegating authority to M/S**

**Dg = 11**

- 1) M/S to introduce measures for cessation of farming and land reallocation – art. 1.1
- 2) M/S may vary aid according to regions – art. 1.2
- 3) M/S may substitute, vary or refuse annuities and premiums – art. 2.1
- 4) M/S to take measures to ensure that social security benefits are not reduced and contributions are not increased – art. 2.3
- 5) M/S may reduce annuity in case of unemployment benefits – art. 2.3 second paragraph (new Major Provision)
- 6) M/S to define the meaning of farmer, main occupation, permanent worker and conditions for cessation of farming – art. 3
- 7) M/S to make provisions debarring from the grant of annuities farms which have decreased significantly in size (rather general, hence there is discretion) – art. 4
- 8) M/S to determine conditions for reallocation of areas to other farms – art. 5.2
- 9) M/S to designate land agencies for the purpose of reallocation – art. 5.3
- 10) M/S to take all necessary steps to recover sums in case of non-compliance – art. 13.1
- 11) M/S may lay down additional conditions for the implementation of the measures – art. 16

Not included: general call of implementation – art. 17

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: Rules governing aid – art. 2.1, 2.2; Rules on definition – art. 3; Rules on the released areas – art. 5.1, 5.3
- 2) Reporting requirement: M/S to submit to the Commission an explanatory memorandum of the measures taken and planning to take – art. 8.2; M/S to notify regularly (similar to a report) the state of administrative and judicial proceedings in cases of non-compliance – art. 13.1
- 3) Executive action required 1:

M/S needs a favorable decision from the Commission and the Standing Committee to have their measures eligible for Community financial contribution – art. 11.1;

**Provisions delegating authority to Commission**

**Dc = 7**

- 1) Commission to decide whether M/S adopted measures satisfy conditions for Community financial contribution, following procedure art. 9 – art. 9.1
- 2) Commission to set rules for the application of spending limits, following procedure of art. 13 of Regulation 729/70 – art. 10.4
- 3) Commission to decide on granting of aid from the Fund (guidance section), reference to art. 7.1 of Regulation 729/70 – art. 12.2
- 4) Commission to set rules on reimbursement, following procedure art. 13 of Regulation 729/70 – art. 12.4
- 5) Commission to set rules on non-compliance and recovery of sums, following procedure art. 13 of Regulation 729/70 – art. 13.4
- 6) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to cessation and reallocation of farming, reference to Treaty art. 93.2 – art. 14
- 7) Extension of Commission's powers to new or modification of M/S aids to cessation and reallocation of farming, reference to Treaty art. 93.3 – art. 14 (new Major Provision)

Not included: Commission to issue an opinion on M/S draft measures – art. 8.3; Commission to authorize payment on account (no delegation of power) – art. 12.3

**Number of constraints to Commission**

**Cc = 6**

1) Spending limit: EAGGF funding limit of 900-600 units of account to annuities and premiums - art. 2.1; Limits of 25% and 65% financing of M/S expenditure – art. 10.2;

2) Rule-making requirements : Rules on eligibility of EAGGF funding – art. 2.1, 2.2, 10.1; Rule on unfavorable conditions in regions – art. 10.3

3) Executive Action Possible – decision to be given following the management committee procedure IIa as referred in art. 9 (Standing Committee on Agricultural Structures) – art. 9.1

rules to be adopted following the management committee procedure IIa of art. 13 of Reg. 729/70 (EAGGF Committee) – art. 10.4, 12.4, 13.4

4) Consultation: of the EAGGF Committee – art. 9.1

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to cessation and reallocation of farming, reference to Treaty art. 93.2-3 – art. 14

5) Legislative action possible:

M/S can request the Council to adopt its aid to cessation and reallocation of farming by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 14

6) Reporting requirement: Commission to produce an annual report for Council and Parliament – art. 15.1

Not included: Spending limit: Estimated total contributions – art. 16.3; Time limit: Estimated time of common measures is ten years – art. 7.1

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**Number** 372L0161

**Title**

**Council Directive 72/161/EEC of 17 April 1972 concerning the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture**

**Description: Measure for the acquisition of occupational skills by persons engaged in agriculture**

**Major provisions** M = 40

**Provisions delegating authority** D = 17

**Number of constraints** C = 8

**Provisions delegating authority to M/S** Dg = 11

1) M/S to set up schemes to provide farmers greater socio-economic guidance – art. 1.1

2) M/S may vary aid and schemes according to regions – art. 1.2

3) M/S to designate and approve services providing socio-economic guidance – art. 2

4) M/S to lay down minimum requirements of courses (admission, programmes, length, means, structure) – art. 4.2

5) M/S to set up schemes for vocational advancement and adaptation – art. 5.1

6) M/S may vary aid and schemes according to regions – art. 5.2

7) M/S to designate and approve vocational training centres or courses – art. 6.1

8) M/S to lay down minimum requirements of vocational courses (admission, programmes, length, means, structure) – art. 6.2

9) M/S to make the necessary provision for the establishment and development of courses and the award of grants and allowances – art. 6.3

10) M/S to introduce schemes of aids to provide income for the duration of retraining courses and maintain social security benefits (vocational retraining to leave agricultural occupation) – art. 7.1

11) M/S may lay down additional conditions for the implementation of the measures – art. 17

Not included: general call on implementation – art. 18

**Number of constraints to M/S** Cg = 3

1) Rule-making requirements: Rules on setting up schemes – art. 3, 4.1

2) Reporting requirement: M/S to submit to the Commission an explanatory memorandum of the measures taken and planning to take – art. 10.2;

3) Executive action required 1: M/S needs a favorable decision from the Commission and the Standing Committee to have their measures eligible for Community financial contribution – art. 13.1;

**Provisions delegating authority to Commission** Dc = 6

1) Commission to decide whether M/S adopted measures satisfy conditions for Community financial contribution, following procedure art. 11 – art. 11.1

2) Commission to set rules for the application of spending limits, following procedure of art. 13 of Regulation 729/70 – art. 12.3

3) Commission to decide on granting of aid from the Fund (guidance section), reference to art. 7.1 of Regulation 729/70 – art. 14.2

4) Commission to set rules on reimbursement, following procedure art. 13 of Regulation 729/70 – art. 14.4

5) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to socio-economic guidance schemes and courses, reference to Treaty art. 93.2 – art. 15

6) Extension of Commission's powers to new or modification of M/S aids to socio-economic guidance schemes and courses, reference to Treaty art. 93.3 – art. 15 (new Major Provision)

Not included: Commission to issue an opinion on M/S draft measures – art. 10.3; Commission to authorize payment on account (no delegation of power) – art. 14.3



**Number of constraints to Commission****Cc = 6**

1) Spending limit: Limits of 25% financing of M/S expenditure (reference to standard amounts of 7500, 4500, 1500 units of account) – art. 12.2;

2) Executive Action Possible – decision to be given following the management committee procedure IIa as referred in art. 11 (Standing Committee on Agricultural Structures) – art. 11.1

rules to be adopted following the management committee procedure IIa of art. 13 of Reg. 729/70 (EAGGF Committee) – art. 12.3, 14.4

3) Consultation: of the EAGGF Committee – art. 11.1

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to socio-economic guidance schemes and courses, reference to Treaty art. 93.2-3 – art. 15

4) Legislative action possible:

M/S can request the Council to adopt its aid to socio-economic guidance schemes and courses by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 15

5) Reporting requirement: Commission to produce an annual report for Council and Parliament – art. 16

6) Rule-making requirements: Rules on setting up schemes that are eligible for funding – art. 3, 4.1

Not included: Spending limit: of the common measures – art. 9.3; Time limit: of ten years of the common measures – art. 9.1

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**Number**            **372L0166**

**Title**

**Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability**

**Description: Insurance against civil liability in respect of the use of motor vehicles**

**Major provisions**

**M = 19**

**Provisions delegating authority**

**D = 6**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 6**

1) M/S may carry out random checks on third country vehicles when entering from another M/S – art. 2.1

2) M/S to take all measures to ensure that civil liability is covered by insurance, including the determination of extent, terms and conditions of cover - art. 3.1

3) M/S may not require civil liability cover for certain persons and vehicles – art. 4

4) M/S to take appropriate measures to ensure compensation for uncovered persons (e.g. designation of authority responsible for compensation) – art. 4a second paragraph (New Major Provision)

5) M/S to retain the right to require green card or frontier insurance contract if some vehicles are not insured – art. 4b second paragraph (New Major Provision)

6) M/S to take appropriate measures to ensure that third country vehicles are insured – art. 6

Note: article 4b grants M/S power to retain rights in a certain situation, this prerogative would have otherwise been relinquished following the adoption of art. 3.

Not included: M/S to ensure that national insurers' bureau obtains relevant information and communicate it to the bureau of the other M/S (simple exchange of information)– art. 5; General call on implementation – art. 8

**Number of constraints to M/S**

**Cg = 1**

1) Rule-making requirements: Rules on the cover of the insurance contract – art. 3.2

**Provisions delegating authority to Commission**

**Dc = 0**

Not included: Commission to fix the date from which and the type of vehicles for which the green card is no longer required (no delegation, the date is dependent on national bureau agreement – art. 2.2 - and the type of vehicles are determined by M/S)

**Number of constraints to Commission**

**Cc = 0**

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**Number** 372R0574

**Title**

**Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community**

**Description: Social security schemes for employed persons and their families, implementing provisions**

**Major provisions**

**M = 345**

**Provisions delegating authority**

**D = 89**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 78**

- 1) M/S may designate liaison bodies – art. 3.1
- 2) Competent authority to designate the competent sickness insurance institution (right of option for diplomats and consular posts) – art. 13.4
- 3) Competent authority to designate institutions competent in respect of EC auxiliary staff – art. 14.3
- 4) Competent authority to designate the competent sickness insurance institution (EC auxiliary staff) – art. 14.4
- 5) Competent institution to decide the granting of substantial benefits in kind (sickness and maternity, residence outside competent M/S) – art. 17.7
- 6) M/S may agree between themselves on other implementing provisions (sickness and maternity, residence outside competent M/S) – art. 17.9
- 7) Institution of place of residence to carry out administrative and medical checks (sickness and maternity, residence outside competent M/S) – art. 18.4
- 8) Competent institution to decide to withhold cash benefits and to establish fitness for work (sickness and maternity, residence outside competent M/S) – art. 18.6
- 9) M/S may agree between themselves different implementing provisions (sickness and maternity, residence outside competent M/S) – art. 18.9
- 10) Competent institution to decide the granting of substantial benefits in kind (sickness and maternity, stay outside the competent M/S) – art. 20.4
- 11) Extension of powers under articles 17.7 and 17.9 (sickness and maternity, stay outside competent M/S) – art. 20.6
- 12) Extension of powers under articles 17.7 and 17.9 (sickness and maternity, stay outside competent M/S, workers outside article 20) – art. 21.2
- 13) Extension of powers under articles 17.7 and 17.9 (sickness and maternity, transfer of or return the country of residence) – art. 22.2
- 14) Extension of powers under articles 17.7 and 17.9 (sickness and maternity, workers authorized to receive treatment in another M/S), reference to articles 22.1 and 22.2 – art. 22.3
- 15) Extension to family members of powers under articles 21 and 22 (sickness and maternity) – art. 23
- 16) Extension to cash benefits of powers under articles 18.6 and 18.9 (sickness and maternity, stay outside competent M/S) – art. 24
- 17) Competent institution to decide the granting of unemployed benefits for persons seeking employment in another M/S, reference to article 17.7 (sickness and maternity) – art. 26.3
- 18) Extension of powers under articles 17.7 and 17.9 for benefits in kind for family members of unemployed (sickness and maternity, residence outside competent M/S) – art. 27
- 19) Institution of residence may register pensioners and family member provisionally (sickness and maternity) – art. 29.2
- 20) Extension of powers under articles 17.7 and 17.9 for benefits in kind for pensioners (sickness and maternity, stay outside competent M/S) – art. 31.2
- 21) Extension of powers under articles 17.7 and 17.9 for benefits in kind for pensioners' family members (sickness and maternity, stay outside competent M/S), reference to articles 31.1 and 31.2 – art. 31.3
- 22) Competent authority to designate the sickness insurance institution (invalidity and pension) – art. 38.1
- 23) Institution to investigate claims for invalidity benefits (invalidity, Annex III acts, benefits independent of duration of insurance periods) – art. 39.1
- 24) Institution to determine the degree of invalidity (invalidity, Annex III acts) – art. 40
- 25) Institution to investigate claims for invalidity benefits (invalidity, cases outside Annex III acts and article 40.2 of Regulation 1408/71) – art. 41.1
- 26) Institution to investigate claims for invalidity benefits (invalidity, benefits dependent of duration of insurance periods, insurance of less than one year) – art. 43.4
- 27) Investigating institution to determine the degree of invalidity (invalidity) – art. 44.1
- 28) Competent institution to determine the degree of invalidity if conditions of entitlement are not fulfilled (invalidity) – art. 44.2
- 29) M/S may agree between themselves different method of payments of provisional benefits and advance payments (invalidity) – art. 45.6

- 30) Investigating institution to calculate the final amount of benefits in cases under article 46.3 of Regulation 1408/71 (old age and death) – art. 47
- 31) Extension of powers under articles 45.6 and 47, in cases under articles 49.2-3 and 51.2 of Regulation 1408/71 (when not all conditions are satisfied) – art. 49.1
- 32) Institutions can recalculate, withdraw or suspend benefits – art. 49.2
- 33) Institution of place of stay or residence to carry out administrative and medical checks (invalidity, old age and death) – art. 51.1
- 34) M/S may agree between themselves different method of payments of benefits (invalidity, old age and death - pensions) – art. 53.2
- 35) Competent institution to decide the granting of substantial benefits in kind (work accidents and diseases, residence outside competent M/S) – art. 60.6
- 36) M/S may agree between themselves different implementing provisions (work accidents and diseases, residence outside competent M/S) – art. 60.9
- 37) Institution of place of stay or residence to carry out administrative and medical checks (work accidents and diseases, residence outside competent M/S) – art. 61.4
- 38) Competent institution to decide to withhold cash benefits and to establish fitness for work (work accidents and diseases, residence outside competent M/S) – art. 61.6
- 39) M/S may agree between themselves different implementing provisions (work accidents and diseases, residence outside competent M/S) – art. 61.9
- 40) Competent institution to decide the granting of benefits in kind for posted workers (work accidents and diseases, stay outside the competent M/S) – art. 62.4
- 41) Extension of powers under articles 60.6 and 60.9, benefits in kind (work accidents and diseases, stay outside competent M/S) – art. 62.8
- 42) Extension of powers under articles 60.6 and 60.9, benefits in kind (work accidents and diseases, transfer of or return the country of residence) – art. 63.2
- 43) Extension of powers under articles 60.6 and 60.9, benefits in kind (work accidents and diseases, workers authorized to receive treatment in another M/S), reference to articles 63.1 and 63.2 – art. 63.3
- 44) Extension of powers under articles 61.6 and 61.9, cash benefits (work accidents and diseases, stay outside the competent M/S) – art. 64
- 45) Competent institution may appoint an investigator (work accidents and diseases contracted outside competent state) – art. 65.3
- 46) Competent institution to decide date of recovery and granting of pensions (work accidents and diseases contracted outside competent state) – art. 65.5
- 47) Competent institution to decide the occupational nature of accidents or diseases (work accidents and diseases contracted outside competent state) – art. 66.2
- 48) Competent institution to ascertain that the activity causing the disease was pursued under another M/S legislation (work accidents and diseases contracted outside competent state) - art. 67.2
- 49) Competent institution to ascertain that conditions for sclerogenic pneumoconiosis apply (work accidents and diseases contracted outside competent state) – art. 67.3
- 50) Competent institution to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases) – art. 71.2
- 51) Competent institutions to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases, more than one competent institution) – art. 71.3
- 52) Competent institutions to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases, more than one competent institution but aggravation in only one M/S) – art. 71.4
- 53) Competent institution to decide pension claims (work accidents and diseases) – art. 75.2
- 54) Institution of place of stay or residence to carry out administrative and medical checks (work accidents and diseases, pensions) – art. 76.1
- 55) Extension of powers under articles 53.2, payment of pensions (work accidents and diseases) – art. 77
- 56) Institution of place where person is seeking job can discontinue or reduce benefits after carrying out checks (unemployment benefits) – art. 83.3
- 57) M/S may agree to introduce other implementing provisions (unemployment benefits) – art. 83.4
- 58) Competent authorities of two or more M/S may agree on special procedures for payment of family benefits (family benefits) – art. 86.4
- 59) Competent authorities of two or more M/S may agree on special procedures for payment of family benefits (family benefits, unemployed), reference to article 86 – art. 88
- 60) Competent institution to determine benefit entitlement (children benefits) – art. 90.3
- 61) Extension of powers under article 53.2, payment of benefit (children benefits) – art. 91.1
- 62) Competent authority to designate institution competent for paying benefits (children benefits) – art. 91.2
- 63) M/S may agree on other methods to calculate amounts and lump-sums (sickness and maternity) – art. 93.6

- 64) M/S may agree on other methods to determine amounts (sickness and maternity, family benefits in kind, residence outside M/S) – art. 94.6
- 65) M/S may agree on other methods to determine amounts (sickness and maternity, pensioners benefits in kind, residence outside M/S) – art. 95.6
- 66) M/S may agree on other methods to calculate amounts and lump-sums (work accident and diseases, benefit in kind), reference to article 93 – art. 96 (New Major Provision)
- 67) M/S may agree on other methods to calculate amounts and lump-sums or waive payments (unemployment benefits) – art. 97.2
- 68) France and other M/S may provide for lump sum refund (family allowances) - art. 98.2
- 69) France and other M/S may agree on other methods to calculate lump-sums (family and unemployment benefits, French legislation) – art. 98.5
- 70) M/S may agree to increase the amount of benefit to account for administrative costs – art. 99
- 71) M/S to designate bodies through which refunds are made – art. 102.2
- 72) Competent authorities may agree on other time limits for refunds and other procedure for payment of advances – art. 102.5
- 73) M/S may agree on other methods to calculate refunds or waive payments of administrative and medical checks – art. 105.2
- 74) Competent institution may request to other M/S paying institution the deduction of overpaid amount out of arrears – art. 111.1
- 75) Competent institution may request to other M/S paying institution the deduction of overpaid amount out of all amounts it pays – art. 111.2
- 76) Institution giving assistance to un-entitled recipients may request the payment of benefits from the responsible M/S institution to be deducted from entitled assistance and to transfer the amount – art. 111.3
- 77) M/S to determine the procedure for implementing transitional provision related to family benefits – art. 119.4
- 78) M/S may conclude supplementary agreements to implement Regulation 1408/71 – art. 120.1

Note: I have not inserted a major provision for every reference to articles 17.9, 18.9, 45.6, 60.9, 61.9, 53.2 because it is enough to consider that M/S can agree between themselves other implementing provisions for the granting of substantial benefits in kind or cash benefits in the initial provisions of the articles; Institution of residence to carry out admin and medical checks can be considered an obligation, but it is also a power – art. 18.4, 51.1, 61.1-4, 76.1

Not included: provisions requiring institutions to issue certified statements – art. 11.1, 13.3, 16.2, 17.1, 20.5, 21.1, 22.1, 25.2, 26.1, 28.1, 29.1, 30.1, 31.1, 60.1, 61.1, 62.1, 62.7, 63.1, 70.1, 79.2, 80.2, 82.2, 83.1, 85.2, 87.1, 89.1; provision explaining the type of benefits institutions should take into account – art. 7.1, 10; competent institutions reserve the right to carry out their medical checks – art. 18.5, 51.1, 61.5, 76.1; Competent institution may require civil status documents (only a request of documents) – art. 25.3, 38.1, 70.1; paying body to discontinue payment in case of withdrawal or suspension (decision is taken by competent institution – art. 49.2) – art. 56.2; Institution may disregard late claims (no delegation of powers, rather a rule regulating claim settlement) – art. 100.1; Paying body may recover from recipients postal and bank charges (no real powers delegated)– art. 58; General call for M/S to take measures to implement the Title on Financial Provisions (general, more specific provisions in the text– art. 103 M/S to lend its own good office in case of recovery of unduly assigned benefits – art. 110

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: General rules on the aggregation of insurance periods – art. 15, 46; Rules to follow when investigating claims – art. 43; Rules on the calculation of the amount of benefits, reference to article 46.2 of Regulation 1408/71 – art. 43.3; Rule to calculate family allowances – art. 98.2; Rule for late claims – art. 100
- 2) Consultation: of the Administrative Commission – art. 17.9, 18.9, 61.9, 83.4, 93.6, 94.6, 95.6, 97.2, 98.5
- 3) Appeals procedure: Decisions must specify remedies and appeals periods, specification of when period for appeal starts – art. 48.1, 49.2, 67.3b, 68.1

Not included: Rules on suspension or reduction of benefits in case of overlapping – art. 7.1, 10

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 372R1035

**Title**

**Regulation (EEC) No 1035/72 of the Council of 18 May 1972 on the common organization of the market in fruit and vegetables**

**Description: Common organization of the market in fruit and vegetables**

**Major provisions** M = 101

**Provisions delegating authority** D = 38

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 13

- 1) M/S to carry out checks on products by designated authorities – art. 8.1
- 2) M/S to carry out checks on imported products by designated authorities, reference to art. 8.1 – art. 9
- 3) M/S to take measures to penalize infringements – art. 10.2
- 4) M/S to carry out checks on products to export – art. 12.2
- 5) M/S may grant aid to producers' organizations to support formation and facilitate operation – art. 14.1
- 6) M/S may grant aid to producers' organizations to cover market intervention costs – art. 14.2
- 7) M/S may fix maximum withdrawal prices – art. 15.1 second sentence
- 8) M/S may not buy in products if in serious difficulties – art. 19.4
- 9) M/S to ensure that free products for schools are supplementary to normal bought quantities – art. 21.1
- 10) M/S may set up other arrangement to support disposal in some cases – art. 21.2
- 11) M/S to organize free distribution and tendering procedures by designated bodies to dispose products – art. 21.3
- 12) M/S to take measures to penalize infringements of M/S arrangement supporting disposal – art. 21.5
- 13) M/S may apply quantitative restrictions in force before 1/1/70 – art. 22.2

Note: article 22.2 extends the possibility of applying quantitative restrictions that would otherwise expire or be prohibited according art. 22.1.

Not included: Financial compensation of article 18.1 repeats art. 14.2; Obligation to buy products during serious crisis – art. 19.2; Protective measures of art. 29 are decided by the Commission, M/S are mere executors with no discretion; General call of implementation – art. 38.2; Delegation to national organizations of producers is not included as they are not M/S authorities: National producers' organizations may fix a withdrawal price (article 1 products) – art. 15.1 first sentence; National organizations of producers to grant an indemnity to producers for any product of article 1 (compulsory for products of Annex II) – art. 15.1 first sentence second part; National organizations of producers to establish intervention funds – art. 15.1 last paragraph

Also not included: M/S to take the appropriate steps to set up producer's organizations – art. 19.4 second paragraph (this is a condition for the exemption under art. 19.4, provisions delegating M/S powers to help the establishment of organization are included in article 14).

**Number of constraints to M/S** Cg = 4

- 1) Rule-making requirement: Rule for imported goods – art. 9, 11; Rule on fixing withdrawal prices – art. 15.1 (reference art. 18); Rules on disposal – art. 21
- 2) Time Limit: M/S may grant aid to producers' organizations for three or five years – art. 14.1, 14.2
- 3) Spending Limit: of 3-1% of production value on aid to aid to producers' organizations (and rules on how to calculate production value) – art. 14.1; Limits on M/S aids to producers' organizations to cover market intervention costs – art. 18.1; Spending limits on arrangements to compensate for disposal – art. 21.2
- 4) Reporting requirements: M/S to produce a report on aid for the Commission – art. 14.3

Not included: Article 21.2 refer to measures as compensation for farmers, this is not a constraint on M/S because they are free to adopt them or not.

**Provisions delegating authority to Commission****Dc = 24**

- 1) Commission to adopt quality standards and dates, following procedure art. 33 – art. 2.2
- 2) Commission to amend current quality standards, following procedure art. 33 – art. 2.3
- 3) Commission to adopt exemption from and rules to apply quality standards, following procedure art. 33 – art. 3.5
- 4) Commission to adopt application of class III and requirements, following procedure art. 33 – art. 4.1
- 5) Commission to adopt measures derogating from applying standards or altering minimum size, following procedure art. 33 – art. 5.3
- 6) Commission to set rules for checking products, following procedure art. 33 – art. 8.2
- 7) Extension to imported goods of Commission's powers, reference to art. 3.5, 4.1, 5.3, 8.2 (following procedure art. 33) – art. 9 (New Major Provision)
- 8) Commission to adopt measures to ensure uniform application of checking and standards, following procedure art. 33 – art. 10.1
- 9) Commission to take measures to ensure that imported goods are of specific quality standards – art. 11
- 10) Commission to adopt derogation to quality standards applied to export, following procedure art. 33 – art. 12.1
- 11) Commission to set rules on product destined to export, following procedure art. 33 – art. 12.3
- 12) Commission to set rules governing withdrawal prices and intervention, following procedure art. 33 – art. 15.2
- 13) Commission to fix conversion factors, following procedure art. 33 – art. 16.4
- 14) Commission to draw up a list of representative markets, following procedure art. 33 – art. 17.2
- 15) Commission may decide to dispose products to the processing industry, following procedure art. 33 – art. 21.1 last paragraph (New Major Provision)
- 16) Commission to set rules for implementing and supervising arrangements and to set conversion factors and tenders criteria, following procedure art. 33 – art. 21.4
- 17) Commission to set rules, conversion factors and reference prices, following procedure art. 33 – art. 27.1
- 18) Commission to introduce, alter or withdraw countervailing charges, following procedure art. 33 – art. 27.2
- 19) Commission to adopt necessary measures in case of serious disturbances – art. 29.2
- 20) Commission to set rules on export refunds, following procedure art. 33 – art. 30.4 first sentence
- 21) Commission to fix export refunds, following procedure art. 33 – art. 30.4 second sentence (New Major Provision)
- 22) Commission may alter refunds in the intervening periods – art. 30.5
- 23) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to fruit and vegetables, reference to Treaty art. 93.2 – art. 31
- 24) Extension of Commission's powers to new or modification of M/S aids to fruit and vegetables, reference to Treaty art. 93.3 – art. 31 (new Major Provision)

Not included: Article 27.2 second paragraph asserts that Commission measures under 27.1 first paragraph are immediately applicable before committee's meeting, it does not extend Commission's powers; Commission to set rules for the communication and distribution of information (information exchange only), following procedure art. 33 – art. 38.1

**Number of constraints to Commission****Cc = 5**

- 1) Rule-making requirement: Rule for imported goods – art. 9, 11; Rule of withdrawal prices – art. 18; Rules on disposal – art. 21; Rule on reference and entry prices and countervailing charges – art. 23, 24, 25, 26
- 2) Executive Action Possible – criteria to be adopted following the management committee procedure IIa of art. 33 (Management Committee for Fruit and Vegetables) – art. 2.2, 2.3, 3.5, 4.1, 5.3, 8.2, 9, 10.1, 12.1, 12.3, 15.2, 16.4, 17.2, 21.1, 21.4, 27.1, 27.2, 30.4
- 3) Time limit: Application of class III for only five years – art. 4.2
- 4) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 29.3  
M/S can request the Council to adopt its aid to fruit and vegetables by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 31
- 5) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to fruit and vegetables, reference to Treaty art. 93.2-3 – art. 31

Not included: Commission to produce a report on the intervention system (no powers delegated in this case) – art. 19.5;

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**Number** 373L0148

**Title**

**Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services**

**Description:**

**Major provisions** M = 22

**Provisions delegating authority** D = 6

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S to favor the admission of dependent members of the family – art. 1.2
- 2) M/S to issue and renew, following their laws, identity cards and passports – art. 2.2
- 3) M/S to afford every facility to grant visas to family members without a M/S nationality – art. 3.2
- 4) M/S may require persons staying for less than three months to report their presence – art. 4.2
- 5) M/S to take steps to simplify formalities and procedures – art. 7.3
- 6) M/S may derogate on grounds of public policy, security or health – art. 8

Not included: General call on implementation – art. 9.1

**Number of constraints to M/S** Cg = 1

1) Rule-making requirement: Rules on the abolition of restrictions – art. 1.1; Rule on the issuance of identity cards and passports – art. 2.3; Rules on the rights of residence – art. 4, 6; Rules on the derogation on grounds of public policy as listed in Directive 64/221;

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 373L0183

**Title**

**Council Directive 73/183/EEC of 28 June 1973 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of self-employed activities of banks and other financial institutions**

**Description: Abolition of restrictions on establishment and services in respect of banks and other financial institutions**

**Major provisions** M = 18

**Provisions delegating authority** D = 6

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S to ensure that beneficiaries join organizations under the same conditions, rights and obligations – art. 4.1
- 2) M/S may take account of facts beyond those of documents to assess good repute – art. 5.2
- 3) M/S to designate authorities competent to issue documents – art. 5.6
- 4) M/S may require prior registration on a list of unestablished foreign service providers – art. 6
- 5) Competent authority may require foreign service providers to inform client of their status and characteristics – art. 6 last paragraph (New Major Provision)
- 6) Netherlands may keep restrictions – art. 8

Note: article 8 extends Netherland's prerogative to keep restrictions that would otherwise expire or been relinquished as a result of adopting article 3.2.

Not included: General call for M/S implementation of the directive provisions – art. 8

**Number of constraints to M/S** Cg = 2

1) Rule requirements: Detailed list of the measures to be abolished – art. 3.2; Rules for what is sufficient for proof of good repute or of not being declared bankrupt – art. 5

2) Time limit: Netherlands is allowed to keep restrictions for four years – art. 8

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption: areas where directive does not apply (no powers delegated to Commission) – art. 1, 2

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**Number** 373L0239

**Title**

**First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance**

**Description: Coordination of laws, regulations and administrative provisions on direct insurance**

**Major provisions** M = 86

**Provisions delegating authority** D = 39

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 39

- 1) M/S to grant authorization to set up a business of direct insurance in its territory (head office, branch, agency, business or territory extension) – art. 6.1
- 2) M/S may grant authorization for any group of classes listed in point B of the Annex – art. 7.2b
- 3) Germany may maintain prohibition of simultaneous undertaking of some types of insurance – art. 7.2c (New Major Provision)
- 4) M/S may set up undertakings under any public law form – art. 8.1a
- 5) M/S may not require particulars referred to in 9a-b for risks classified under No 11 of point A of Annex – Art. 9
- 6) M/S may refute designated agent on ground of repute and technical qualification – art. 10.1d
- 7) M/S may not require particulars referred to in 9a-b for risks classified under No 11 of point A of Annex (agency or branch) – Art. 11.1
- 8) M/S supervisory authority of head office to verify solvency – art. 14
- 9) M/S to require, according to its own rules, the establishment and set the amount of technical reserves – art. 15.1
- 10) M/S may permit relaxations in rules on matching and localization of assets – art. 15.2 first paragraph
- 11) Luxembourg may retain the existing system of guarantees for technical reserves – art. 15.2 second paragraph (New Major Provision)
- 12) M/S to determine nature of assets, how they cover technical reserves and rules for valuing assets – art. 15.2 third paragraph (New Major Provision)
- 13) M/S supervisory authority of head office to verify that assets cover liabilities, in the balance sheet, for all the countries where undertaking operates – art. 15.4
- 14) M/S of head offices to require the establishment of a solvency margin – art. 16.1
- 15) M/S supervisory authorities to approve the carrying of hidden reserves in the solvency margin – art. 16.1 sixth indent (New Major Provision)
- 16) M/S may provide for a ¼ reduction of minimum guarantee fund for mutual associations – art. 17.2c
- 17) Denmark and Germany may maintain restrictions on free disposal of assets – art. 18.2
- 18) M/S to require every undertaking to produce an annual account – art. 19.1
- 19) M/S to require undertakings to produce periodic accounts of returns and statistical documents – art. 19.2
- 20) National supervisory authority may prohibit free disposal of assets in case of non-compliance with article 15 on technical reserves – art. 20.1
- 21) National supervisory authority of head office to approve a restoration plan of solvency margin – art. 20.2
- 22) National supervisory authority of head office to approve a short-term finance scheme if solvency margin falls below guarantee fund – art. 20.3
- 23) National supervisory authority may prohibit free disposal of assets if solvency margin falls below guarantee fund – art. 20.3 second paragraph (New Major Provision)
- 24) National supervisory authority may take all measures necessary to safeguard interest of insured – art. 20.4
- 25) M/S to allow and approve assignments of portfolio of policies – art. 21.1
- 26) Competent authority may withdraw authorization to head office – art. 22.1
- 27) National supervisory authority to take all measures necessary (e.g. limits on disposal of assets) to safeguard interest of insured in case of withdrawal of authorization – art. 22.1 last paragraph (New Major Provision)
- 28) Competent authority may withdraw authorization to agency or branch – art. 22.2
- 29) M/S to grant authorization to set up a business of direct insurance in its territory (head office outside the Community) – art. 23.1
- 30) M/S to approve authorized agents (head office outside the Community) – art. 23.2
- 31) M/S to require, according to its own rules, the establishment of adequate technical reserves (head office outside the Community) – art. 24
- 32) M/S to require a solvency margin for agencies and branches (head office outside the Community) – art. 25.1
- 33) Competent authority of oldest establishment to verify solvency (head office outside the Community) – art. 26.2
- 34) Other M/S competent authorities may verify solvency (head office outside the Community) – art. 26.2 last sentence (New Major Provision)
- 35) M/S may withdraw advantages for agencies or branches (head office outside the Community) – art. 26.3
- 36) Extensions of powers under articles 19.1-2 and 20.1-4 to agencies or branches (head office outside the Community) – art. 27
- 37) M/S may extent compliance period by undertakings – art. 30.2a



38) M/S may exempt undertakings from establishing minimum guarantee fund – art. 30.2b (New Major Provision)

39) M/S may retain for undertakings with head office outside the Community the rules applied on 1/1/73 – art. 32

Note: verification can be carried out by other authorities under unanimous approval of other M/S, this is a different option, it is not a further delegation of power (head office outside the Community) – art. 26.2

Note: article 7.2c specifies that Germany may maintain prohibition of simultaneous undertaking of some types of insurance, this provision extends a prerogative that would have otherwise been relinquished as a result of applying article 7.2. The same applies for 15.2 where Luxembourg may retain the existing system of guarantees for technical reserves, otherwise relinquished as a result of art. 15.2 first paragraph. Also art. 18.2 where Denmark and Germany may maintain restrictions on free disposal of assets, relinquished as a result of art. 18.2. Also art. 32 where M/S may retain for undertakings with head office outside the Community the rules applied on 1/1/73, relinquished as a result of Title II and, specifically, art. 15.

Not included: these are ‘no prejudice provisions’, prerogatives would have not otherwise been relinquished as a result of this Directive: M/S may apply provisions requiring directors and managers to be technically qualified and to have other documents approved – art. 8.3; M/S may apply provisions requiring approval of conditions, tariffs and documents – art. 10.3; M/S may take any measure as owners or members of undertakings – art. 18.3

Not included: M/S to require the forms that undertakings should adopt (this is a rule rather than delegation of powers) – art. 8.1; M/S to collaborate on supervising financial position of undertakings (this is a general call, article 14 is more specific) – art. 13; General call on collaboration (other paragraphs in the article are more specific) – art. 20.5; Possibility of exemption from establishing minimum guarantee fund is repeated in article 30.3; General call on implementation – art. 35

### **Number of constraints to M/S**

**Cg = 5**

1) Rule-making requirements: Rules on granting authorization to set up a business of direct insurance – art. 7, 8, 9, 10, 23.2; Rule on technical reserves – art. 15.2, 15.3, 24; Rule on solvency margin – art. 16, 17, 25.1; Conditions on Germany’s maintaining restrictions on free disposal of assets – art. 18.2; Rules of withdrawal of authorizations – art. 22, 28; Rule on M/S exemption of undertakings from establishing minimum guarantee fund – art. 30.2b

2) Time Limit: Germany may maintain prohibition of simultaneous undertaking of some types of insurance for four years – art. 7.2c; M/S may extent compliance by undertakings by two years – art. 30.2a; Exemption from establishing minimum guarantee fund limited to ten years in some cases – art. 30.3; M/S may retain for undertakings with head office outside the Community the rules applied on 1/1/73 for four years – art. 32

3) Appeals procedure: Provision for appeal against a refusal to grant or withdrawal of authorization – art. 12, 22.3

4) Consultation: Supervisory authorities to consult each other before approving assignments or withdrawing authorizations – art. 21.1, 22.2

5) Executive action required 1: Prior unanimous agreement of other M/S is needed before competent authorities of not the oldest establishment may verify solvency (head office outside the Community) – art. 26.2 last sentence

### **Provisions delegating authority to Commission**

**Dc = 0**

### **Number of constraints to Commission**

**Cc = 0**

Not included: Exemption: (no delegation to Commission) – art. 2, 3, 4

Reporting requirements: Commission to submit reports – art. 34

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**Number** 374L0561

**Title**

**Council Directive 74/561/EEC of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations**

**Description: Rules on the admission to the occupation of road haulage operator**

**Major provisions** M = 20

**Provisions delegating authority** D = 11

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 11

- 1) M/S may lower the payload limits of applicability of the legislation – art. 2.1
- 2) M/S may exempt undertakings with minor impact on the market – art. 2.2
- 3) Competent authorities may permit natural persons with no professional competence to engage in the occupation of road haulage operator – art. 3.1
- 4) M/S may require that other persons in the undertaking satisfy the provision of good repute – art. 3.1 last paragraph (New Major Provision)
- 5) M/S to determine the provisions of good repute to be satisfied – art. 3.2
- 6) M/S to determine the provisions of appropriate financial standing to be satisfied – art. 3.3
- 7) M/S to designate the authorities that recognize the condition of professional competence – art. 3.4
- 8) M/S may exempt holders of advance and technical diplomas – art. 3.4 last sentence first paragraph (New Major Provision)
- 9) M/S to determine circumstances in which undertaking may operate on a temporary basis – art. 4.1
- 10) M/S may definitively authorize a person not fulfilling conditions of professional competence – art. 4.2
- 11) M/S to ensure that competent authorities withdraw authorizations if conditions are not satisfied – art. 6.2

Not included: General call for implementation – art. 7

**Number of constraints to M/S**

**Cg = 4**

- 1) Rules making requirements: Rules for when competent authorities may permit natural persons with no professional competence to engage in the occupation of road haulage operator – art. 3.1; Rule on professional competence – art. 3.4 and Annex; Persons has to possess three years of practical experience for M/S to authorize to operate even if not fulfilling conditions of professional competence – art. 4.2
- 2) Consultation: Prior consultation with the Commission when M/S exempt undertakings with minor impact on the market – art. 2.2
- 3) Time limit: M/S to determine circumstances in which undertaking may operate on a temporary basis for a maximum of one year and a half – art. 4.1
- 4) Appeals procedure: Provision emphasizing the need to state grounds of decisions and providing legal remedies – art. 6.1, 6.3

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption: in art 2.1 (there is no delegation)

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**Number** 374R2988

**Title**

**Regulation (EEC) No 2988/74 of the Council of 26 November 1974 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the European Economic Community relating to transport and competition**

**Description: Imposition of time limits on the Commission's powers to impose and enforce fines or penalties**

**Major provisions** M = 13

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 375L0034

**Title**

**Council Directive 75/34/EEC of 17 December 1974 concerning the right of nationals of a Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity**

**Description: Right to remain in a M/S after working as self-employed**

**Major provisions** M = 18

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 3

1) M/S to facilitate re-admission of self-employed persons who, after leaving, wish to return – art. 8.2

2) M/S can derogate on grounds of public policy, security or health – art. 9

3) M/S to apply the right of equality of treatment to persons with the right to remain – art. 7;

Note: Article 7 is similar to provisions requiring M/S to ensure equality of treatment, it is extended to persons with the right to remain.

Not included: M/S to abolish restrictions on the right to remain – art. 1; M/S to recognize right to remain (obligation) – art. 2.1, 3; M/S to allow persons entitled to the right to remain to exercise the right within two years (obligation) – art. 5.1; M/S to recognize the right to a residence permit (obligation) – art. 6.1; General call on implementation – art. 10.1

**Number of constraints to M/S** Cg = 1

1) Rule-making requirements: Rules on the derogation on grounds of public policy as listed in Directive 64/221;

Not included: Consultation: Commission to express an opinion after being informed of new laws (no delegation in case of notification of new laws) – art. 10.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 375L0117

**Title**

**Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women**

**Description: Approximation of the laws to apply the principle of equal pay**

**Major provisions** M = 11

**Provisions delegating authority** D = 4

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 4

- 1) M/S to introduce measures to enable employees to pursue claims of unequal pay – art. 2
- 2) M/S to take measures to ensure that provisions of employment contracts and agreements violating the principle of equal pay shall be, or may be declared null, void or amended – art. 4
- 3) M/S to take necessary measures to protect against dismissal in reaction to an equal pay complaint – art. 5
- 4) M/S to take measures to ensure that the principle of equal pay is applied with effective means – art. 6

Not included: M/S to abolish discrimination – art. 3; M/S to bring to employees' attention the provisions pursuant to the directive – art. 7; General call on implementation – art. 8.1

**Number of constraints to M/S** Cg = 3

- 1) Rule-making requirements: Definition of the principle of equal pay – art. 1
- 2) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 9
- 3) Appeals procedure: Article 2 and 5 are also constraints on M/S because they facilitate appeal also against national administrations

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 375L0129

**Title**

**Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies**

**Description: Approximation of the laws on collective redundancies**

**Major provisions** M = 16

**Provisions delegating authority** D = 3

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S may grant power to competent authority to reduce the 30 days waiting period after notification to effect redundancies – art. 4.1
- 2) M/S may grant power to competent authority to extend to 60 days the actual period between notification and redundancy if it is shorter than 60 days – art. 4.3
- 3) M/S may grant power to competent authority wider powers of extension – art. 4.3 second paragraph (New Major Provision)

Not included: article 5 asserts that the directive shall not affect M/S laws more favorable to employees, this is a 'no prejudice' provision, prerogatives would have not been otherwise relinquished as a result of this Directive; General call on implementation – art. 6.1

**Number of constraints to M/S** Cg = 2

- 1) Rule-making requirement: Definition of collective redundancy – art. 1.1; Rule on when redundancies can take effect – art. 4.1
- 2) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 8

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption: in art. 1.2 (no delegation to Commission)

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**Number** 375L0268

**Title**

**Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas**

**Description: Structural policy in favour of mountain and hill farming**

**Major provisions** M = 34

**Provisions delegating authority** D = 9

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 8

- 1) M/S may introduce the special system of aid – art. 1
- 2) M/S may apply only some of the measures of the special system of aids – art. 4.2
- 3) M/S may grant annual compensatory allowances for permanent natural handicaps – art. 5
- 4) M/S may lay down additional or restrictive conditions for annual compensatory allowances – art. 6.2
- 5) M/S are entitled to not granting the compensatory allowances to some or all products of art. 7.1 – art. 7.2
- 6) M/S to control the bases for calculating allowances – art. 7.3
- 7) M/S may grant aid for joint investment for fodder and for improvement and equipment schemes – art. 11
- 8) M/S may grant investment aids to farms incapable of attaining a certain level of income – art. 12.1

Note: Article 4 lists the type of measures possible, the first indent of art. 4.1 repeats art. 5, the third repeats art. 11 and the fourth repeats art. 12.1. I consider art. 1 as accounting for the second indent of art. 4.1. Further, this second indent refers to the type of aids of art. 8 and 10 of Directive 72/159, I have not considered the constraints and delegation of those articles, and only recorded constraints and delegation in this directive because they are additional to those of Directive 72/159.

Not included: General call on implementation – art. 17

**Number of constraints to M/S** Cg = 2

1) Rule-making requirement: Criteria to define less-favored farming areas (this is a limit on the M/S system of aid) – art. 3; Rules on granting compensatory allowances – art. 6, 7; Rules on guidance premiums – art. 9.2; Ceilings of 50-70% on income from agricultural and non-agricultural activities – art. 10.1.

2) Spending Limit: on compensatory allowances – art. 7.1; 2% minimum charge to recipient and a maximum interest rate subsidy of 7% - art. 9.1, 12.3; Ceilings on guidance premiums – art. 9.2; Limit of 10,000 of account in aid for tourism – art. 10.2; Limit on EAGGF funding on aid under article 11 - art. 15

**Provisions delegating authority to Commission** Dc = 1

- 1) Commission to amend the limits of less-favored farming areas, following procedure art. 18 of Directive 72/159 – art. 2.3

**Number of constraints to Commission** Cc = 3

1) Executive Action Possible – decisions to be given following the management committee procedure IIa as referred in art. 18 of Directive 72/159 (Standing Committee on Agricultural Structures) – art. 2.3

2) Executive action required 1: Amendment of the limits of less-favored farming areas only upon a request of a M/S – art. 2.3

3) Rule-making requirement: Amendments should not increase areas by more than 0.5% - art. 2.3; Criteria to define less-favored farming areas – art. 3

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**Number** 375L0362

**Title**

**Council Directive 75/362/EEC of 16 June 1975 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

**Description: Mutual recognition of diplomas, certificates and other formal qualifications in medicine**

**Major provisions**

**M = 49**

**Provisions delegating authority**

**D = 15**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 15**

- 1) Host M/S may require other M/S nationals wishing to acquire diplomas not referred in articles 4 and 6 to fulfil the conditions of training of the specialty – art. 8.1
- 2) Host M/S may require diplomas to be accompanied by a certificate stating that other M/S nationals have been engaged in the activity for a specific period – art. 9.2
- 3) Host M/S to ensure that other M/S nationals fulfilling conditions have the right to use their title – art. 10.1
- 4) Host M/S may require name and location to follow the title – art. 10.1 last sentence (new Major Provision)
- 5) Host M/S may require suitable wording of title if risk of confusion with a title of higher qualification – art. 10.2
- 6) Host M/S may require other M/S nationals' judicial record (right of establishment) - art. 11.2
- 7) Competent authority of M/S of origin to appraise and take action on serious matters outside territory of host M/S (right of establishment, no requirement of good repute) – art. 11.3
- 8) Competent authority of M/S of origin to appraise and take action on serious matters outside territory of host M/S (right of establishment, requirement of good repute) – art. 12.2
- 9) Host M/S may require from the person a prior declaration on the provision of services (provision of services, temporary stay) - art. 16.2
- 10) Host M/S may require from the person various documents (provision of services) - art. 16.3
- 11) M/S to ensure the temporary or permanent withdrawal of the certificate when appropriate (provision of services) - art. 16.5
- 12) M/S to see to it that persons acquire the necessary linguistic knowledge – art. 20.3
- 13) M/S may impose a preparatory training period for social security doctors – art. 21
- 14) M/S may require confirmation of authenticity and training – art. 22
- 15) M/S to designate competent authorities and bodies – art. 23

Not included: M/S to recognize diplomas (obligation) – art. 2, 4, 6, 9.1, 9.2, 9.3; M/S to take into account training periods (obligation) - art. 8.2; Issuance of certificates – art. 9.2, 9.3, 11.1, 13; Host M/S can adopt measures of administrative nature or regarding rules of conduct on other M/S nationals (provision of services, no extension of powers that would otherwise have been relinquished) – art. 16.1; M/S to ensure the appropriate form of oath or declaration for other M/S nationals – art. 19; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 20.1; M/S to designate competent authorities and bodies is repeated in art. 20.2 – art. 23; General call on implementation – art. 25.1;

**Number of constraints to M/S**

**Cg = 2**

- 1) Rule-making requirements: Rules on the length of the period sufficient to testify specialty – art. 9.2; List of documents M/S may require for the provision of services – art. 16.3; M/S may impose a maximum six month preparatory training period for social security doctors – art. 21
- 2) Time Limit: M/S can impose, for five years following the notification of the directive, a preparatory training period for social security doctors – art. 21

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 375L0363

**Title**

**Council Directive 75/363/EEC of 16 June 1975 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors**

**Description: Coordination of provisions in respect of activities of doctors**

**Major provisions** M = 20

**Provisions delegating authority** D = 4

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 4

- 1) M/S to ensure the minimum requirements of the training for specialized medicine are met (diploma in specialized medicine) – art. 2.1
- 2) M/S to designate authorities or bodies competent to issue diplomas (specialized medicine) – art. 2.3
- 3) M/S may permit part-time specialist training – art. 3.1
- 4) Luxembourg and Denmark may award two diplomas to candidates – art. 8

Not included: Article 1.5 asserts that nothing in the Directive shall prejudice any facility granted by M/S to authorize holders of diplomas not obtained in a M/S to pursue a medical profession. This is a ‘no prejudice provision’, it does not extend a power that would otherwise have been relinquished.

Not included: M/S to require persons wishing to pursue a medical profession to hold diplomas with guarantees (diploma in medicine) (obligation) – art. 1.1; M/S to make the award of a diploma in specialized medicine subject to the possession of the diplomas of article 1 - art. 2.2 (obligation, no delegation of powers); Article 7 on part-time training repeats art. 3.1; M/S to ensure minimum length of specialized training courses (a rule rather than a delegation of powers) – art. 4, 5; General call on implementation – art. 9.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Guarantees of the diploma needed for the medical profession – art. 1.1, 1.2, 1.3; requirements of the training for specialized medicine – art. 2.1; Rule on part-time training – art. 3.2; Minimum length of specialized training courses – art. 4, 5

2) Time limit: Luxembourg and Denmark may award two diplomas to candidates who began their training before the end of the 18 month transitional period since notification of the directive, no award possible after this period – art. 8

Not included: article 3.3 provides for the provisions on part time training to be re-considered after four years, but this does not necessarily imply that part-time training will be revoked (i.e. it is not a time limit constraint); similarly article 7 states a four years period for the maintenance of part-time training, but it is extended in case of no decision by the Council

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 375L0442

**Title**

**Council Directive 75/442/EEC of 15 July 1975 on waste**

**Description: Directive on waste**

**Major provisions**

**M = 17**

**Provisions delegating authority**

**D = 8**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 8**

- 1) M/S may adopt specific rules for certain categories of waste – art. 2.1
- 2) M/S to take appropriate steps to encourage prevention, recycling and processing of waste, the extraction of raw materials and of energy – art. 3.1
- 3) M/S to take necessary measures to ensure safe disposal – art. 4
- 4) M/S to establish or designate competent authorities for planning, organization, authorization and supervision of waste disposal operations – art. 5
- 5) M/S to take necessary measures to ensure holders of waste have it handle by waste collectors or disposal undertakings in a safe way – art. 7
- 6) Competent authorities to issue permits to installations or undertakings treating, storing or tipping waste on behalf of third parties – art. 8
- 7) Competent authorities to periodically inspect installations or undertakings treating, storing or tipping waste, and if permit conditions are being fulfilled – art. 9
- 8) Competent authorities to supervise undertakings transporting, collecting, treating, storing or tipping their own and third party waste – art. 10

Not included; General call on implementation – art. 13

**Number of constraints to M/S**

**Cg = 2**

1) Rule-making requirement List of the types of measures to encourage prevention, recycling and processing of waste that have to be adopted – art. 3.2; Rules on waste disposal and permit – art. 8; Principle of ‘Polluter pays’ – art. 11

2) Reporting requirement: M/S to draw up a situation report every three years – art. 12

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption of types of waste – art. 2.2; Reporting requirement: Commission to report to the Council every three years – art. 12 (no powers delegated)

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**Number** 375R0724

**Title**

**Regulation (EEC) No 724/75 of the Council of 18 March 1975 establishing a European Regional Development Fund**

**Description: Establishment of the European Regional Development Fund**

**Major provisions** M = 47

**Provisions delegating authority** D = 11

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 5

- 1) M/S to decide that fund contribution may either supplement granted aid or remain credited as partial repayment – art. 4.2a last paragraph (New Major Provision)
- 2) M/S to submit requests for fund's assistance (this implies that M/S are in charge of the selection of projects) – art. 7.1
- 3) M/S to designate authorities authorized to certify completion of investment and to receive payments – art. 8.4
- 4) M/S to take steps to facilitate supervision of funds' operation – art. 9.2
- 5) Competent authorities to carry out on-the-spot checks – art. 9.3

Not included: M/S to take steps to publicize assistance from the funds – art. 14.1

**Number of constraints to M/S** Cg = 3

- 1) Spending limit: percentage distribution of resources across M/S – art. 2.1; Limits on amounts of contributions – art. 4.2
- 2) Rule-making requirements: Rules on the areas entitled for aids – art. 3; Rules on the types of investments entitled for aids – art. 4.1; Rules on the drawing up to requests – art. 7.2, 7.3, 7.5, 8; Rule on on-the spot checks – art. 9.4
- 3) Reporting requirements: M/S to provide annually a statistical summary of results achieved as a result of the actions taken in each region, with a separate section where the fund has contributed – art. 6.6

Not included: Spending limit: total appropriations – art. 2.1

**Provisions delegating authority to Commission** Dc = 5

- 1) Commission to set rules on calculation of aid equivalent, reference to implementing regulation to be adopted following procedure art. 12 – art. 4.2
- 2) Commission to decide the fund's assistance, following procedure art. 12 – art. 5.1
- 3) Commission to decide reduction or cancellation of fund's contribution – art. 9.1
- 4) Commission may suspend payment of aid – art. 9.5
- 5) Commission to adopt necessary measures of implementation, following procedure art. 12 – art. 17

Note: No supervisory powers are delegated to the Commission (as compared, for instance, to the EAGGF legislation), it can only ask competent authorities to carry out checks and fix a time limit.

Not included: Commission to make payments to M/S (a simple authorization of an appropriation) – art. 8.4; Commission may fix a time limit for carrying out on-the-spot checks – art. 9.3 last sentence

**Number of constraints to Commission** Cc = 5

- 1) Spending limit: percentage distribution of resources across M/S – art. 2.1; Limits on amounts of contributions – art. 4.2
- 2) Rule-making requirements: Rules on the areas entitled for aids – art. 3; Rules on the types of investments entitled for aids – art. 4.1; Rules on Commission decision to grant fund's assistance – art. 5.1, 7.4, 9.6
- 3) Executive Action Required 3 – rules to be adopted following the management committee procedure IIb of art. 12 (Fund committee) – art. 4.2, 5.1, 17
- 4) Consultation: of the Committee for Regional Policy for large infrastructural projects – art. 5.2; of Fund Committee – art. 9.1
- 5) Reporting requirements: Commission to present an annual report on the implementation of the ERDF – art. 16.1

Not included: Spending limit: total appropriations – art. 2.1

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**Number** 375R2727

**Title**

**Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals**

**Description: Common organization of the market in cereals**

**Major provisions**

**M = 94**

**Provisions delegating authority**

**D = 32**

**Number of constraints**

**C = 5**

**Provisions delegating authority to M/S**

**Dg = 3**

1) Intervention agencies may offer for sale common wheat (also with a denaturing premium) and rye – art. 7.3

2) M/S to issue import or export licenses – art. 12.1

3) Italy may reduce levies for some imports by sea – art. 23.1

Not included: Obligation to buy by intervention agencies – art. 7.1; Protective measures of art. 20 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S**

**Cg = 1**

1) Rule-making requirements: Criteria for lowering levies by Italy – art. 23.1

**Provisions delegating authority to Commission**

**Dc = 29**

1) Commission to adopt marketing centres for common wheat and derived intervention prices for those centres, following procedure art. 26 – art. 4.6

2) Commission to adopt threshold prices for products listed in art. 1c, following procedure art. 26 – art. 5.6

3) Commission to set rules on qualities, quantities, scales, intervention etc, following procedure art. 26 – art. 7.5

4) Commission to determine nature and application of special intervention measures, following procedure art. 26 – art. 8

5) Commission to decide stock qualifying for payment, following procedure art. 26 – art. 9.1

6) Commission to set rules on minimum quantities and categories, following procedure art. 26 – art. 9.6

7) Commission to set rules on period of validity of licenses, following procedure art. 26 – art. 12.2

8) Commission to set rules on coefficients, CIF prices, margins, following procedure art. 26 – art. 13.4

9) Commission to fix import levies (products of art. 1a, b and c) – art. 13.5

10) Commission may add a fixed amount to import levies in some cases, following procedure art. 26 – art. 14.2

11) Commission to fix import levies (products of art. 1d) – art. 14.4

12) Commission to decide to add a premium to the levy (products art. 1c, d), following procedure art. 26 – art. 15.3

13) Commission to set rules on advance fixing, following procedure art. 26 – art. 15.5

14) Commission to fix scale of premiums – art. 15.6

15) Commission to decide on suspension of advance fixing provisions, following procedure art. 26 – art. 15.7

16) Commission may suspend advance fixing – art. 15.7 second paragraph (New Major Provision)

17) Commission to fix export refunds, following procedure art. 26 – art. 16.2

18) Commission may alter the refund – art. 16.2 last paragraph (New Major Provision)

19) Commission to fix corrective amounts, following procedure art. 26 – art. 16.4

20) Commission may alter the corrective amount – art. 16.4 second paragraph, last sentence (New Major Provision)

21) Commission to set rules on export refund and fixing amounts, following procedure art. 26 – art. 16.6

22) Commission to decide on suspension of advance fixing provisions (export refunds), following procedure art. 26 – art. 16.7

23) Commission may suspend advance fixing (export refund) – art. 16.7 second paragraph (New Major Provision)

24) Commission to set rules on measures if prices threaten the Community market, following procedure art. 26 – art. 19.3

25) Commission to decide upon measures in case of serious disturbances – art. 20.2

26) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to cereals, reference to Treaty art. 93.2 – art. 22

27) Extension of Commission's powers to new or modification of M/S aids to cereals, reference to Treaty art. 93.3 – art. 22 (new Major Provision)

28) Commission to set rules for implementation of Italian imports by sea, following procedure art. 26 – art. 23.3

29) Commission to set rules on mobilization of products by purchases on the world market, following procedure art. 26 – art. 28.3

Not included: rules for the exchange of information, following procedure art. 26 – art. 24

**Number of constraints to Commission**

**Cc = 5**

1) Executive Action Possible – centres, prices, rules and other elements to be determined following the management committee procedure IIa of art. 26 (Management Committee for Cereals) – art. 4.6, 5.6, 7.5, 8, 9.1, 9.6, 12.2, 13.4, 14.2, 15.3, 15.5, 15.7, 16.2, 16.4, 16.6, 16.7, 19.3, 23.3, 28.3

2) Consultation of M/S prior to adoption of marketing centres and derived intervention prices – art. 4.6

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to cereals, reference to Treaty art. 93.2-3 – art. 22

3) Rule-making requirements for setting prices (derived intervention, threshold) – art. 4.1, 5.1, 5.2; carry-over payment – art. 9.3, 9.4; Rules on import levies – art. 13.1, 13.2, 14.1; Rules on export refund – art. 16.1

4) Time Limit: Commission may suspend advance fixing for a maximum of three days – art. 15.7 second paragraph

5) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 20.3

M/S can request the Council to adopt its aid to cereals by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 22

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**Number** 375R2759

**Title**

**Regulation (EEC) No 2759/75 of the Council of 29 October 1975 on the common organization of the market in pigmeat**

**Description: Common organization of the market in pigmeat**

**Major provisions**

**M = 68**

**Provisions delegating authority**

**D = 19**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 2**

1) Intervention agencies may buy some products (belly of pork, pig fat) – art. 3

2) M/S may issue import licenses – art. 14.1

Not included: Intervention agencies to take intervention measures (obligation, when and how defined by the Commission) – art. 4.3; Protective measures of art. 18 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S**

**Cg = 0**

**Provisions delegating authority to Commission**

**Dc = 17**

1) Commission to decide to take intervention measures and to set rules, following procedure art. 24 – art. 4.6

2) Commission to determine products, qualities, prices, aid and rules for intervention measures, following procedure art. 24 – art. 5.4

3) Commission to set rules on disposal of products, following procedure art. 24 – art. 6.2

4) Commission to set rules on private storage aid, following procedure art. 24 – art. 7.2

5) Commission to fix import levies, following procedure art. 24 – art. 8

6) Commission to fix coefficients for ratios, following procedure art. 24 – art. 10.4

7) Commission to fix sluice-gate prices, following procedure art. 24 – art. 12.1

8) Commission to set rules on additional amount and offer prices, following procedure art. 24 – art. 13.5

9) Commission to fix additional amount added to levies, following procedure art. 24 – art. 13.5 second paragraph (New Major Provision)

10) Commission to set rules on validity of licenses, following procedure art. 24 – art. 14.3

11) Commission to fix export refunds, following procedure art. 24 – art. 15.5

12) Commission may alter refunds – art. 15.5 last sentence (New Major Provision)

13) Commission to set rules on export refunds, following procedure art. 24 – art. 15.6

14) Commission to decide upon measures in case of serious disturbances – art. 18.2

15) Commission to take exceptional measures to support markets affected by animal disease, following procedure art. 24 – art. 20

16) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to pigmeat, reference to Treaty art. 93.2 – art. 21

17) Extension of Commission's powers to new or modification of M/S aids to pigmeat, reference to Treaty art. 93.3 – art. 21 (new Major Provision)

Not included: rules for the exchange of information, following procedure art. 24 – art. 22

**Number of constraints to Commission**

**Cc = 4**

1) Rule-making requirements: Rules on intervention measures (103% of basic price) and prices – art. 4.2, 5.1; Rules on import levies and their components – art. 9.1, 10; Rules on sluice-gate prices – art. 12.2

2) Executive Action Possible – decisions and rules to be taken following the management committee procedure IIa of art. 24 (Management Committee for Pigmeat) – art. 4.6, 5.4, 6.2, 7.2, 8, 10.4, 12.1, 13.5, 13.5 second paragraph, 14.3

3) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (it does not say but, as from other legislation, Commission's measure should stand in case of inaction) – art. 18.3

M/S can request the Council to adopt its aid to pigmeat by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 21

4) Consultation: Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to pigmeat, reference to Treaty art. 93.2-3 – art. 21

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**Number** 375R2771

**Title**

**Regulation (EEC) No 2771/75 of the Council of 29 October 1975 on the common organization of the market in eggs**

**Description: Common organization of the market in eggs**

**Major provisions** M = 47

**Provisions delegating authority** D = 13

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 0

Not included: Protective measures of art. 12 are decided by the Commission, M/S are mere executors with no discretion

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 13

- 1) Commission to fix import levies, following procedure art. 17 – art. 3
- 2) Commission to fix coefficients for ratios, following procedure art. 17 – art. 5.2
- 3) Commission to fix sluice-gate prices, following procedure art. 17 – art. 7.1
- 4) Commission to fix overhead costs (products of art. 1.1b), following procedure art. 17 – art. 7.4
- 5) Commission to set rules on additional amount and offer prices, following procedure art. 17 – art. 8.4
- 6) Commission to fix additional amount added to levies, following procedure art. 17 – art. 8.4 second paragraph (New Major Provision)
- 7) Commission to fix export refunds, following procedure art. 17 – art. 9.2
- 8) Commission may alter refunds – art. 9.2 last sentence (New Major Provision)
- 9) Commission to set rules on export refunds, following procedure art. 17 – art. 9.3
- 10) Commission to decide upon measures in case of serious disturbances – art. 12.2
- 11) Commission to take exceptional measures to support markets affected by animal diseases, following procedure art. 17 – art. 14
- 12) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to eggs, reference to Treaty art. 93.2 – art. 19
- 13) Extension of Commission's powers to new or modification of M/S aids to eggs, reference to Treaty art. 93.3 – art. 19 (new Major Provision)

Not included: rules for the exchange of information, following procedure art. 17 – art. 15

**Number of constraints to Commission** Cc = 4

- 1) Rule-making requirements: Rules on import levies and their components – art. 4.1, 5, 8.1; Rules on sluice-gate prices – art. 7
- 2) Executive Action Possible – decisions and rules to be taken following the management committee procedure IIa of art. 17 (Management Committee for Poultrymeat and Eggs) – art. 3, 5.2, 7.1, 7.4, 8.4, 8.4 second paragraph, 9.2, 9.3, 14
- 3) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (it does not say, but Commission's measure should stand in case of inaction) – art. 12.3

M/S can request the Council to adopt its aid to eggs by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 19

- 4) Consultation: Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to eggs, reference to Treaty art. 93.2-3 – art. 19

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Number 375R2777

Title

Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organization of the market in poultrymeat

Description: Common organization of the market in poultrymeat

Major provisions M = 48

Provisions delegating authority D = 12

Number of constraints C = 4

Provisions delegating authority to M/S Dg = 0

Not included: Protective measures of art. 12 are decided by the Commission, M/S are mere executors with no discretion

Number of constraints to M/S Cg = 0

Provisions delegating authority to Commission Dc = 12

- 1) Commission to fix import levies, following procedure art. 17 – art. 3
- 2) Commission to fix coefficients for ratios, following procedure art. 17 – art. 5.3
- 3) Commission to fix sluice-gate prices, following procedure art. 17 – art. 7.1
- 4) Commission to set rules on additional amount and offer prices, following procedure art. 17 – art. 8.4
- 5) Commission to fix additional amount added to levies, following procedure art. 17 – art. 8.4 second paragraph (New Major Provision)
- 6) Commission to fix export refunds, following procedure art. 17 – art. 9.2
- 7) Commission may alter refunds – art. 9.2 last sentence (New Major Provision)
- 8) Commission to set rules on export refunds, following procedure art. 17 – art. 9.3
- 9) Commission to decide upon measures in case of serious disturbances – art. 12.2
- 10) Commission to take exceptional measures to support markets affected by animal diseases, following procedure art. 17 – art. 14
- 11) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to poultrymeat, reference to Treaty art. 93.2 – art. 19
- 12) Extension of Commission's powers to new or modification of M/S aids to poultrymeat, reference to Treaty art. 93.3 – art. 19 (new Major Provision)

Not included: rules for the exchange of information, following procedure art. 17 – art. 15

Number of constraints to Commission Cc = 4

- 1) Executive Action Possible – decisions and rules to be taken following the management committee procedure IIa of art. 17 (Management Committee for Poultrymeat and Eggs) – art. 3, 5.3, 7.1, 8.4, 8.4 second paragraph, 9.2, 9.3, 14
- 2) Rule-making requirements: Rules on import levies and their components – art. 4 .1, 5, 8.1; Rules on sluice-gate prices – art. 7
- 3) Legislative action possible : Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 12.3  
M/S can request the Council to adopt its aid to poultrymeat by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 19
- 4) Consultation : Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to poultrymeat, reference to Treaty art. 93.2-3 – art. 19

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**Number** 376R0100

**Title**

**Council Regulation (EEC) No 100/76 of 19 January 1976 on the common organization of the market in fishery products**

**Description: Common organization of the market in fishery products**

**Major provisions** M = 104

**Provisions delegating authority** D = 29

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 9

- 1) M/S to carry out checks for conformity of fishery products – art. 4.1
- 2) MS/ to adopt all necessary measures to penalize infringements – art. 4.2
- 3) M/S may grant aid to facilitate the constitution and functioning of organizations of producers – art. 6.1
- 4) M/S may grant loans to cover cost of intervention – art. 6.2
- 5) M/S may grant exclusive recognition to producers' organizations – art. 7
- 6) M/S may require compliance to common rules by producers not member of exclusive organizations – art. 7 second paragraph (New Major Provision)
- 7) M/S to grant financial compensation to organizations of producers that have carried out intervention in some products (Annex I, lists A and C) – art. 11.1
- 8) M/S may retain quantitative restrictions to third countries products listed in annex IV, list C – art. 18.3
- 9) M/S to take necessary steps to ensure equal access to ports and facilities – art. 25.2

Note: Measures under art. 18.3 would expire according to art. 18.2; while the provision that M/S may maintain aid to facilitate transition of already established organization (art. 6.3) does not extent powers to be relinquished nor measures that would have expired.

Not included: M/S to purchase products during serious crises – art. 12.2 (obligation); Protective measures of art. 22.1 are decided by the Commission, M/S are mere executors with no discretion; Delegation of powers to national organizations of producers is not included as they are not state institutions: National organizations of producers can decide to waive the obligation to sell if products are in accordance with common rules – art. 5.1; National organizations of producers may fix withdrawal prices – art. 8.1; National organizations of producers may grant an indemnity to producers (products of Annex Ia,c) – art. 8.1 second paragraph; National organization of producers to set up intervention funds – art. 8.3;

**Number of constraints to M/S** Cg = 3

- 1) Spending limit: Aid cannot be more than 3%, 2% or 1% of the value of production and 60%, 40% and 20% of the administrative costs – art. 6.1, 6.3; Limits to financing intervention funds – art. 11.1c, 11.3
- 2) Time limit: Aid for only 3 or 5 years – art. 6.1, 6.2, 6.3
- 3) Reporting requirements: M/S to produce a report on the aid granted – art. 6.4

**Provisions delegating authority to Commission** Dc = 20

- 1) Commission to adjust common marketing standards for technical progress, following procedure art. 32 – art. 3
- 2) Commission to set rules of checks, following procedure art. 32 – art. 4.4
- 3) Commission may set a maximum withdrawal price, following procedure art. 32 – art. 8.1 third paragraph
- 4) Commission to adopt measures of application of withdrawal prices and intervention funds, following procedure art. 32 – art. 8.5
- 5) Commission to set rules and representative markets and ports, following procedure art. 32 – art. 10.3
- 6) Commission to set rules and withdrawal prices in some products (Annex I, lists A and C), following procedure art. 32 – art. 11.5
- 7) Commission to set rules on intervention in periods of serious crises, following procedure art. 32 – art. 12.5
- 8) Commission to set rules and representative markets and ports, following procedure art. 32 (products of annex II) – art. 14.4
- 9) Commission to set rules on amount and duration of aids to private storage and conditions for de-storage, following procedure art. 32 (products of annex II) – art. 15.3
- 10) Commission to set rules and representative markets and ports, following procedure art. 32 (products of annex III list A) – art. 16.6
- 11) Commission to set rules on reference prices and suspension or limitation of imports, following procedure art. 32 – art. 19.6
- 12) Commission to adopt, modify or amend import levies, following procedure art. 32 – art. 19.6 second paragraph (New Major Provision)
- 13) Commission to set rules on reference prices for carps, following procedure art. 32 – art. 20.5
- 14) Commission to adopt, modify or amend countervailing charges, following procedure art. 32 – art. 20.5 last sentence (New Major Provision)
- 15) Commission to decide upon the necessary and immediately applicable measures in case disturbances – art. 22.2
- 16) Commission to fix export refunds at regular intervals, following procedure of art. 32 – art. 23.2
- 17) Commission may alter refunds in the intervening period – art. 23.2 last sentence (New Major Provision)
- 18) Commission to set rules for export refunds, following procedure of art. 32 – art. 23.5

19) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to fishery products, reference to Treaty art. 93.2 – art. 26

20) Extension of Commission's powers to new or modification of M/S aids to fishery products, reference to Treaty art. 93.3 – art. 26 (new Major Provision)

Not included: Article 19.6 third paragraph asserts that Commission measures under 19.6 second paragraph are immediately applicable before committee's meeting, it does not extend Commission's powers; Commission to set rules for the exchange of information, following procedure art. 32 – art. 30

**Number of constraints to Commission**

**Cc = 5**

1) Executive Action Possible – rules and measures to be adopted following the management committee procedure IIa of art. 32 (Management Committee for Fishery Products) – art. 3, 4.4, 8.1, 8.5, 10.3, 11.5, 12.5, 14.4, 15.3, 16.6, 19.6, 19.6 second paragraph, 20.5, 20.5 last sentence, 23.2, 23.5

2) Rule making-requirements: Rules for the adoption of withdrawal, reference and entry prices – art. 11.4, 15.1, 19.2, 19.3; Countervailing charges – art. 19.4, 20.3; Rules on reference prices for carps – art. 20.2

3) Reporting requirement: Commission to produce a report on the intervention system– art. 13.1

4) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 22.3

M/S can request the Council to adopt its aid to fishery products by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 26

5) Consultation: Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to fishery products, reference to Treaty art. 93.2-3 – art. 26

Not included: Commission's report on conversion factors (no delegation of powers) – art. 11.4

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**Number** 376R0101

**Title**

**Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry**

**Description: Common structural policy for the fishing industry**

**Major provisions** M = 26

**Provisions delegating authority** D = 2

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 2

1) M/S to ensure equal conditions of access to and use of fishing grounds – art. 2.1

2) M/S may grant financial aid – art. 8.1

**Number of constraints to M/S** Cg = 1

1) Rule-making requirements: Rules and conditions on the granting of financial aid – art. 9

**Provisions delegating authority to Commission** Dc = 0

Not included: Commission to decide form and date of submission of documents – art. 5.2; Commission to give an opinion – art. 10.2

**Number of constraints to Commission** Cc = 0

Not included: Reporting requirement: Commission to submit a report on structures of fishing industry (no delegation) – art. 6.1

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**Number** 376L0160

**Title**

**Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water**

**Description: Quality of bathing water**

**Major provisions** M = 31

**Provisions delegating authority** D = 10

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 8

1) M/S to set values applicable to bathing water – art. 3.1

2) M/S may decide not to fix any values if missing – art. 3.1 second paragraph (New Major Provision)

3) M/S to take necessary measures to ensure that quality of water conforms to limit values – art. 4.1

4) M/S to ensure that the "I values" of the Annex are observed – art. 4.2

5) M/S may grant derogations in respect to the 10-year time limit – art. 4.3

6) Competent authorities to carry out sampling operations – art. 6.1

7) M/S may fix more stringent values for bathing water – art. 7.2

8) M/S may waive some provisions – art. 8

Not included: M/S to observe values of column G as guidelines (obligation) – art. 3.3; General call on implementation – art. 12.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Parameters for bathing water – art. 3.1 and Annex, 5.1; Rules on sampling – art. 5.1, 6.2-5; Rules on waiving provisions – art. 8

2) Reporting requirements: M/S to submit a report on bathing waters – art. 13

**Provisions delegating authority to Commission** Dc = 1

1) Commission to adopt amendments to adapt to technical progress, following procedure art. 11 – art. 9

**Number of constraints to Commission** Cc = 1

1) Executive Action Required 2: decisions to be adopted following the regulatory committee procedure IIIa of art. 11 (Committee on Adaptation to Technical Progress) - art. 9

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**Number** 376L0207

**Title**

**Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions**

**Description: Principle of equal treatment for men and women applied to employment, training, promotion, and working conditions**

**Major provisions** M = 19

**Provisions delegating authority** D = 6

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S may exclude from the application of the Directive some occupational activities and training leading thereto where worker's sex is a determining factor – art. 2.2
- 2) M/S to take necessary measures to ensure repeal or revision of laws, agreements, contracts and rules contrary to the principle of equal treatment (conditions and selection criteria for access to jobs or posts) – art. 3.2
- 3) M/S to take necessary measures to ensure repeal or revision of laws, agreements, contracts and rules contrary to the principle of equal treatment (conditions and selection criteria for access to vocational training) – art. 4
- 4) M/S to take necessary measures to ensure repeal or revision of laws, agreements, contracts and rules contrary to the principle of equal treatment (working conditions and dismissal) – art. 5.2
- 5) M/S to introduce measures to enable employees to pursue claims of unequal treatment – art. 6
- 6) M/S to take necessary measures to protect against dismissal in reaction to an equal treatment complaint – art. 7

Note: Article 2.2 is, at a first sight, worded as a no prejudice provision, however the provision asserts that M/S can exclude some activities from the Directive's field of application, this is a power granted to the M/S as a derogation from the scope of art. 1 and as a result of adopting this law.

Not included: Article 2.3 is a 'no prejudice provision', M/S provisions on the protection of women on the grounds of maternity are unaffected, these prerogatives would have not otherwise been relinquished (however, there might be a case that the interpretation of the principle could have unexpectedly led to such an outcome); M/S to bring to employees' attention the provisions pursuant to the directive – art. 8; General call on implementation – art. 9.1

**Number of constraints to M/S** Cg = 3

1) Rule-making requirements: Definition of the principle of equal treatment – art. 3.1, 5.1

2) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 10

3) Appeals procedure: Articles 6 and 7 are also constraints on M/S because they facilitate appeal also against national administrations

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 376R1418

**Title**

**Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice**

**Description: Common organization of the market in rice**

**Major provisions** M = 92

**Provisions delegating authority** D = 29

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 1

1) M/S to issue import or export licenses – art. 10.1

Not included: Obligation to buy and offer for sale by intervention agencies – art. 5.1, 5.3; Protective measures of art. 22 are decided by the Commission, M/S are mere executors with no discretion;

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 28

1) Commission to determine marketing centres in surplus production areas, following procedure art. 27 – art. 4.6

2) Commission to set rules on qualities, quantities, corrective amounts, prices and intervention conditions, following procedure art. 27 – art. 5.5

3) Commission to determine nature and scope of special intervention measures, following procedure art. 27 – art. 6

4) Commission to set rules and quantity qualifying for payment, following procedure art. 27 – art. 8.5

5) Commission to set rules on period of validity of licenses, following procedure art. 27 – art. 10.2

6) Commission to fix import levies – art. 11.2

7) Commission may add a fixed amount to import levies (products of article 1.1c), following procedure art. 27 – art. 12.2

8) Commission to fix import levies (products of art. 1.1c) – art. 12.4

9) Commission to decide to add a premium to the levy (products art. 1.1c), following procedure art. 27 – art. 13.3

10) Commission to set rules on advance fixing, following procedure art. 27 – art. 13.5

11) Commission to fix scale of premiums – art. 13.6

12) Commission to decide on suspension of advance fixing provisions, following procedure art. 27 – art. 13.7

13) Commission may suspend advance fixing – art. 13.7 first paragraph, second sentence (New Major Provision)

14) Commission to determine varieties and threshold prices, following procedure art. 27 – art. 14.5

15) Commission to set rules on corrective amounts, method to calculate cif prices and margins, following procedure art. 27 – art. 16.5

16) Commission to fix export refunds, following procedure art. 27 – art. 17.2

17) Commission may alter the refund – art. 17.2 last paragraph (New Major Provision)

18) Commission to fix corrective amounts, following procedure art. 27 – art. 17.4

19) Commission may alter the corrective amount – art. 17.4 second paragraph, last sentence (New Major Provision)

20) Commission to set rules on export refund and fixing amounts, following procedure art. 27 – art. 17.6

21) Commission to decide on suspension of advance fixing provisions (export refund), following procedure art. 27 – art. 17.7

22) Commission may suspend advance fixing (export refund) – art. 17.7 second paragraph (New Major Provision)

23) Commission to determine conversion rates, processing costs and value of by-products, following procedure art. 27 – art. 19

24) Commission to set rules on measures if prices threaten the Community market, following procedure art. 27 – art. 21.3

25) Commission to decide upon measures in case of serious disturbances – art. 22.2

26) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to rice, reference to Treaty art. 93.2 – art. 24

27) Extension of Commission's powers to new or modification of M/S aids to rice, reference to Treaty art. 93.3 – art. 24 (new Major Provision)

28) Commission to set rules on availability of rice for food-aid programmes, following procedure art. 27 – art. 25.3

Not included: rules for the exchange of information, following procedure art. 27 – art. 26

**Number of constraints to Commission**

**Cc = 5**

1) Executive Action Possible – centres, prices, rules and other elements to be determined following the management committee procedure IIa of art. 27 (Management Committee for Cereals of art. 25 of Regulation 2727/75) – art. 4.6, 5.5, 6, 8.5, 10.2, 12.2, 13.3, 13.5, 14.5, 16.5, 17.2, 17.4, 17.6, 17.7, 21.3, 25.3

2) Consultation of M/S prior to determination of marketing centres – art. 4.6

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to rice, reference to Treaty art. 93.2-3 – art. 24

3) Rule-making requirements carry-over payment – art. 8.2; Rules on import levies – art. 11.1, 12.1; rules on threshold and cif prices – art. 14.2, 14.3, 16.2-4; Rules on export refund – art. 17.1

4) Time Limit: Commission may suspend advance fixing for a maximum of three days – art. 13.7, 17.7

5) Legislative action possible: Commission's protective measure may be referred to the Council within 3 days, Council may amend or repeal the measure (Commission's measure should stand in case of inaction) – art. 22.3

M/S can request the Council to adopt its aid to rice by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 24

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**Number** 377L0062

**Title**

**Council Directive 77/62/EEC of 21 December 1976 coordinating procedures for the award of public supply contracts**

**Description: Coordinating procedures for the award of public supply contracts**

**Major provisions**

**M = 77**

**Provisions delegating authority**

**D = 14**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 14**

- 1) Contracting authorities to apply their national procedures in awarding public works contracts (as adapted to this directive's provisions) - art. 2.1
- 2) Contracting authorities may award contracts without applying the provisions in some cases – art. 6.1
- 3) Contracting authorities may define technical specifications by reference to appropriate standards – art. 7.1
- 4) Contracting authorities may apply shorter time limits in cases of urgency – art. 12.1
- 5) Contracting authorities may publish notices for contracts of value above 1m units of account – art. 16
- 6) Contracting authorities may require groups to assume a specific legal form – art. 18
- 7) Contracting authorities to select the candidate invited for tender in the restricted procedure – art. 19.1
- 8) M/S to ensure that authorities issue invitations under the same conditions to nationals – art. 19.2
- 9) M/S to designate authorities competent to issue documents – art. 20.4
- 10) Contracting authorities may request to prove enrolment in the professional or trade register – art. 21
- 11) Contracting authorities to specify further references of financial and economic standing to be produced – art. 22.2
- 12) Contracting authorities may invite contractors to supplement documents – art. 24
- 13) Italy may retain the 'anonymous envelope' procedure – art. 25.3
- 14) Contracting authorities may reject, after examination, tenders that it considers to be abnormally low – art. 25.5

Note: Powers under articles 21, 22.2, 24 are power to request information, they are considered as complementary to the power to select candidate and award contracts. Compared to Directive 71/305, this one has more main provision simply because more paragraphs are numbered; but the two directives are similar. Art. 7.1 on technical specification does not specify competent authorities, however it is obvious from the text.

The prerogative to maintain the 'anonymous envelope' procedure in art. 25.3 would have otherwise been relinquished as a result of applying art. 25.1

Not included: Applications to be invited to compete may be transmitted of various ways and must be confirmed by letter (no real discretion or delegation of powers) – art. 11.5; Contracts to be awarded on the basis of specific criteria (constraint, art. 2 already specifies that authorities must apply their national procedures) – art. 17.1; Contractors may be excluded following article 20 (this repeats the power to award contract and select candidate in articles 2.1 and 19.1) – art. 20.1; Contracting authorities to issue certificate of registration – art. 20.3; General call for the adoption of measures – art. 30; Article 26 asserts that the Directive shall not prevent Italy to implement provisions of Law No. 835, this is a 'no prejudice provision', powers would have not otherwise been relinquished.

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: Procedures to be applied to public works contract with value above 200,000 EUA (it can be seen as an exemption for contract below that value, but for M/S it is better to be seen as constraint on their rules for awarding contracts) – art. 5.1; Rules on the technical specifications – art. 7.1 and Annex II; Rules on advertising – art. 9-16; Rules on shorter time limits in cases of urgency – art. 12.1; Criteria for selection of contractors and award of contract – art. 20, 22-24, 25;
- 2) Time Limit: Contracting authorities may award contracts without applying the provisions in some cases only until 1/1/81 – art. 6.1; Italy may retain the 'anonymous envelope' procedure for three years – art. 25.3
- 3) Reporting requirements: M/S to supply to the Commission every June a statement of the value and total number of contracts awarded following art. 6.1 – art. 6.2;

Contracting authorities to justify (similar to presenting a report) to the advisory committee for public contracts the rejection of low-priced tenders – art. 25.7

M/S to submit a annual report on implementation to the advisory committee for public contracts and an annual statistical report – art. 27.2, 29.1

**Provisions delegating authority to Commission**

**Dc = 0**

Not included: Commission to calculate exchange value of European units of account (EUA) (no discretion) – art. 5.1; Commission to determine breakdown of information – art.29.2

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption: in art. 2.2, 3, 6.1, 25.4

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**Number** 377L0091

**Title**

**Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent**

**Description: Second directive on co-ordination of company law**

**Major provisions**

**M = 93**

**Provisions delegating authority**

**D = 28**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 28**

- 1) M/S may decide not to apply the directive to investment companies and cooperatives – art. 1.2
  - 2) M/S to make provision for responsibility of liabilities incurred before authorization – art. 4.1
  - 3) M/S may provide that legislation amended following EUA fluctuations shall not apply – art. 6.2
  - 4) M/S may allow those who undertake to place shares in the exercise of their profession to pay less than the total price of the shares – art. 8.2
  - 5) M/S may decide not to apply article 10 – art. 10.4
  - 6) M/S may require acquisition to be examined when assets belong to a shareholder or any other person – art. 11.1
  - 7) M/S to adopt the measures requiring at least the same safeguards in case of the conversion into a public limited liability company – art. 13
  - 8) M/S may provide for derogations in the case of investment companies with fixed capital – art. 15.4
  - 9) M/S may provide that persons subscribing capital may be released from obligations if they prove that no fault is attributable to them – art. 18.3
  - 10) M/S may provide for derogations where the acquisition of a company's own shares is necessary to prevent serious and imminent harm to the company – art. 19.2
  - 11) M/S may decide not to apply article 19.1a to shares acquired for distribution to company's employees – art. 19.3
  - 12) M/S may decide not to apply article 19 in some cases – art. 20.1
  - 13) M/S may make cancellation subject to a corresponding reduction in the subscribed capital – art. 20.3
  - 14) M/S may decide not to apply to bank transactions the provision that acceptance of the company's own shares as security is treated as acquisition – art. 24.2
  - 15) M/S may decide not to apply article 27.2 in case of an increase in subscribed capital made in order to give effect to a merger or a public offer for the purchase of shares – art. 27.3
  - 16) M/S may decide not to apply article 27.2 if all the shares issued in the course of an increase in subscribed capital are issued for a consideration other than in cash to one or more companies – art. 27.4
  - 17) M/S need not apply article 29.1 to shares with limited right to participate in distributions – art. 29.2a
  - 18) M/S may permit the right of pre-emption to be exercised under some conditions – art. 29.2b (New Major Provision)
  - 19) M/S need not provide for publication where all company's shares are registered – art. 29.3
  - 20) M/S may provide that the statutes may give the power to restrict the right of pre-emption to the company body which is empowered to decide on an increase in subscribed capital – art. 29.5
  - 21) M/S to lay down the conditions for the exercise of the right of creditors in the event of a reduction in the subscribed capital – art. 32.1
  - 22) M/S need not apply article 32 to a reduction in the subscribed capital whose purpose is to offset losses – art. 33.1
  - 23) M/S may permit a reduction of subscribed capital to an amount less than the minimum capital under some conditions – art. 34
  - 24) M/S may lay down that a simple majority of the votes is sufficient – art. 40.2
  - 25) M/S may derogate from some provisions if necessary for provisions designed to encourage the participation of employees – art. 41.1
  - 26) M/S may decide not to apply some provisions to companies incorporated under a special law which issue both capital shares and workers' shares – art. 41.2
  - 27) M/S to ensure equal treatment to all shareholders who are in the same position – art. 42
  - 28) M/S may decide not to apply some provisions to companies already in existence – art. 43.2
- Not included: M/S to require that a minimum capital not less than 25,000 (EUA) is subscribed (obligation) – art. 6.1; M/S to provide that at least two-thirds supports decisions (obligation)- art. 40.1; General call on implementation – art. 43.1

Not included: Article 14 asserts that M/S may retain provisions on competence and procedure relating to the modification of the statutes or of the instrument of incorporation, and article 15.3 that M/S may retain provisions on increases in subscribed capital by capitalization of reserves – art. 15.3; these are two 'no prejudice' provision, they do not extend M/S powers that they would otherwise have relinquished.

**Number of constraints to M/S**

**Cg = 2**

1) Rule-making requirements: Rules defining investment companies and cooperatives – art. 1.2, 15.4; Requirements to meet for M/S not applying article 10 – art. 10.4; Conditions for derogations – art. 15.4; Conditions on the non application of article 19 – art. 20; Rules on the right of pre-emption – art. 29.3; Rules on the rights of creditors – art. 32.2, 33.1, 33.2; M/S may lay down that a simple majority of the votes is sufficient when at least half the subscribed capital is represented – art. 40.2

2) Time limit: M/S may provide that legislation amended following EUA fluctuations shall not apply for 18 months only – art. 6.2; M/S may decide not to apply some provisions to some companies already in existence for 18 months – art. 43.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption in art. 23.2, 25.4, 29.6 (there is no delegation of powers)

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**Number** 377L0187

**Title**

**Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses**

**Description: Approximation of laws on safeguarding employees' rights in case of transfers of undertakings**

**Major provisions** M = 21

**Provisions delegating authority** D = 7

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 7

- 1) M/S may provide that, after the transfer, the transferor shall continue to be liable in respect of some obligations – art. 3.1
- 2) M/S may limit the period for observing terms and conditions by transferee – art. 3.2
- 3) M/S to adopt the necessary measures to protect the interests of employees in respect of rights conferring on them immediate entitlement to old-age benefits – art. 3.3
- 4) M/S may provide that provisions on dismissal based on the transfer not apply to certain categories of employees – art. 4.1
- 5) M/S may limit the obligations of information and consultation to some cases of transfer – art. 6.3
- 6) M/S may limit the obligations of information and consultation to undertakings fulfilling the conditions for the election of a body representing employees – art. 6.4
- 7) M/S may provide that, where there are no representatives, the employees to be informed in advance – art. 6.5

Not included: article 7 asserts that the directive shall not affect M/S laws more favorable to employees, this is a 'no prejudice' provision, prerogatives would have not been otherwise relinquished as a result of this Directive; General call on implementation - art. 8.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: M/S may limit the period for observing terms and conditions, but it must be at least one year (this is not a time limit on M/S powers)– art. 3.2

2) Reporting requirement: M/S to forward information to the Commission so that a report on implementation is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 9

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption of sea-going vessels – art. 1.3 (no delegation to Commission)

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**Number** 377L0249

**Title**

**Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services**

**Description: Provisions to facilitate the effective exercise by lawyers of freedom to provide services**

**Major provisions** M = 15

**Provisions delegating authority** D = 5

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 5

- 1) M/S may reserve to prescribed categories of lawyers some activities – art. 1.1
- 2) M/S may require lawyers to be introduced to the presiding judge and to work in conjunction with a lawyer who practises before the judicial authority – art. 5
- 3) M/S may exclude lawyers who are in the salaried employment of undertaking from pursuing activities relating to the representation of that undertaking – art. 6
- 4) Competent authority may request persons to establish his qualifications as a lawyer – art. 7.1
- 5) Competent authority to determine the consequences of non-compliance with article 4 – art. 7.2

Not included: M/S to recognize as lawyers persons listed in article 1.2 (obligation) – art. 2; General call on implementation – art. 8.1

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 377R0355

**Title**

**Council Regulation (EEC) No 355/77 of 15 February 1977 on common measures to improve the conditions under which agricultural products are processed and marketed**

**Description: Common measures on production and marketing of agricultural products**

**Major provisions** M = 57

**Provisions delegating authority** D = 14

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S to draw up specific programmes – art. 2
- 2) M/S to approve projects – art. 13.3
- 3) M/S to appoint agencies through which funds are paid – art. 19.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Rules on drawing up specific programmes – art. 3.1; Criteria for projects entitled to aid – art. 11.1, 12

2) Exemption: the regulation shall not apply to investments at the retail level and to other projects – art. 6.2, 15.2

Not included: Time Limits of 3-5 years for the execution of programmes – art. 3.1g, 16.1

**Provisions delegating authority to Commission** Dc = 11

- 1) Commission to take a decision on the approval of specific programmes, following procedure art. 22 – art. 5
- 2) Commission to determine the particulars and the form of presentation of applications for aid, following procedure art. 22 – art. 13.5
- 3) Commission to take decisions on applications of aids to projects, following procedure art. 22 – art. 14.1
- 4) Commission may increase contribution to 30% in some cases, following procedure art. 22 – art. 17.2c
- 5) Commission to carry out on-the-spot checks – art. 19.2
- 6) Commission may decide to suspend, reduce or discontinue aid and recover payment, following procedure art. 22 – art. 19.2 second paragraph (New Major Provision)
- 7) Commission to set rules of implementation, following procedure art. 13 of Regulation 729/70 – art. 19.5
- 8) Commission may decide to reverse decision if beneficiary does not submit report and recover payment, following procedure art. 22 – art. 20.2
- 9) Commission to set rules and content of the report, following procedure art. 22 – art. 20.3
- 10) Extension of Commission's powers to decide the abolition or modification of existing M/S aid to agricultural marketing and production measures, reference to Treaty art. 93.2 – art. 23
- 11) Extension of Commission's powers to new or modification of M/S aids to agricultural marketing and production measures, reference to Treaty art. 93.3 – art. 23 (new Major Provision)

Note: Article 13.5 requires the Commission to determine the particulars to include in an application for aid, I have included it because, even though it is about information provision, it is a important complementary power delegated in support of the power to decide the granting of aid.

Not included: Powers delegated in article 1.3 repeats the more specific powers of article 14.1;

**Number of constraints to Commission** Cc = 7

1) Executive Action Possible – decisions to be given following the management committee procedure IIa as referred in art. 22 (Standing Committee on Agricultural Structures or Standing Committee on Fisheries Structures and Standing Committee for the Fishing Industry) – art. 5, 13.5, 14.1, 17.2c, 19.2, 20.2, 20.3

rules to be adopted following the management committee procedure IIa of art. 13 of Regulation 729/70 (Committee for the European Agricultural Guidance and Guarantee Fund) – art. 19.5

2) Exemption: the regulation shall not apply to investments at the retail level and to other projects – art. 6.2, 15.2

3) Rule-making requirements: Criteria for projects entitled to aid – art. 11.1, 12; Rules on the procedure to approve aids to projects – art. 13.2

4) Executive Action Required 1: Commission may grant aid only to projects approved by M/S (prior approval) – art. 13.3

5) Consultation: of the EAGGF Fund Committee – art. 13.5, 14.1, 19.2, 20.2, 20.3

Commission to give notice and wait from comments of interested parties before deciding the abolition or modification of a M/S aid to agricultural marketing and production measures, reference to Treaty art. 93.2-3 – art. 23

6) Spending Limits: Aid granted by the fund not to exceed 15-30% - art. 17.2c, 17.3

7) Legislative action possible:

M/S can request the Council to adopt its aid to agricultural marketing and production measures by unanimity, Commission's measure is suspended but default condition is the Commission's measure if the Council does not act within three months, reference to Treaty art. 93.2-3 - art. 23

Not included: Time Limits of 3-5 years for the execution of programmes – art. 3.1g, 16.1; Spending limit: Estimated cost of the measures – art. 16.3

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**Number** 377L0388

**Title**

**Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment**

**Description: Sixth VAT Directive - Common system for a uniform basis of assessment**

**Major provisions** M = 151

**Provisions delegating authority** D = 84

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 83

- 1) M/S may treat as taxable persons carrying out some specific activities – art. 4.3
- 2) M/S may determine the conditions of application of the criterion to transformations of buildings and land – art. 4.3a (New Major Provision)
- 3) M/S may apply criteria other than that of first occupation – art. 4.3a second paragraph (New Major Provision)
- 4) M/S may treat as a single taxable person persons who are financially closely bound to one another – art. 4.4
- 5) M/S may consider activities exempted under Article 13 or 28 as activities which they engage in as public authorities – art. 4.5
- 6) Member States may consider supply of some goods to be tangible property – art. 5.3
- 7) M/S may consider some activities to be supplies – art. 5.5
- 8) M/S may treat some applications as supplies made for consideration – art. 5.7
- 9) M/S may consider that no supply of goods has taken place in some cases – art. 5.8
- 10) M/S may take the necessary measures to prevent distortion of competition –art. 5.8 last sentence (New Major Provision)
- 11) M/S may derogate from the provisions of article 6.2 – art. 6.2
- 12) M/S may treat as a supply of services the supply of a service where the VAT would not be wholly deductible – art. 6.3
- 13) Extension to the supply of services of powers under article 5.8 – art. 6.5
- 14) M/S may consider other places with regard to the supply of services and the hiring out of movable tangible property – art. 9.3
- 15) M/S may provide that the tax shall become chargeable at specific dates for certain transactions and taxable persons – art. 10.2
- 16) M/S may link the chargeable event and the date with those laid down for Community duties or may apply the provisions in force – art. 10.3
- 17) M/S may consider as incidental those expenses covered by a separate agreement (within territory) – art. 11.A2b
- 18) M/S may adopt as taxable amount the value defined in Regulation 803/68 – art. 11.B2
- 19) M/S may consider as incidental those expenses covered by a separate agreement (import of goods) – art. 11.B3
- 20) M/S to take steps to ensure that the treatment of the goods temporarily exported and are re-imported for value added tax purposes is the same – art. 11.B5
- 21) M/S to determine conditions to reduce taxable amount in case of cancellation, refusal or non-payment – art. 11.C1
- 22) M/S may derogate in case of total or partial non-payment – art. 11.C1 second paragraph (New Major Provision)
- 23) M/S may include or exclude returnable packing costs and take the necessary measures – art. 11.C3
- 24) M/S may effect adjustments and adopt transitional measures in case of changes in the rates – art. 12.2
- 25) M/S to fix the standard VAT rate of value added tax - art. 12.3
- 26) M/S may make the supply of goods or services subject to increased or reduced rates – art. 12.4
- 27) M/S to lay down conditions for exemptions (within territory) – art. 13.A1
- 28) M/S may introduce any restrictions as regards the number of events or the amount of receipts entitled to exemption – art. 13.A1o (New Major Provision)
- 29) M/S may make the granting to bodies of exemptions subject to conditions – art. 13.A2
- 30) M/S to lay down conditions for exemptions (within territory, other exemptions) – art. 13.B
- 31) M/S may apply further exclusions to the exemption to the leasing or letting of immovable property – art. 13.Bb (New Major Provision)
- 32) M/S may allow taxpayers a right of option for taxation in some cases – art. 13.C
- 33) M/S may restrict the scope of the right of option and fix the details – art. 13.C second paragraph (New Major Provision)
- 34) M/S to lay down conditions for exemptions (importation) – art. 14.1
- 35) M/S may maintain or adapt their provisions and use their most preferred administrative procedures to achieve exemption – art. 14.2
- 36) M/S to lay down conditions for exemptions (exports) – art. 15
- 37) M/S may restrict the scope of the exemption to the supply of goods for the fuelling and provisioning of vessels – art. 15 point 4 (New Major Provision)
- 38) M/S to lay down conditions and limitations for exemptions to some goods and services through a tax refund – art. 15 point 10 (New Major Provision)

- 39) M/S may take special measures designed to relieve from VAT some transactions (international goods traffic) – art. 16.1
- 40) M/S may opt to exempt imports for and supplies of goods to a taxable person intending to export – art. 16.2
- 41) M/S to determine the method by which the refund are made – art. 17.4
- 42) M/S may refuse the refund or impose supplementary conditions in some cases – art. 17.4 last sentence (New Major Provision)
- 43) M/S may authorize or compel the taxable person to various rules and deductions – art. 17.5
- 44) M/S may, for economic reasons, exclude some capital goods from the system of deductions or tax them differently – art. 17.7
- 45) M/S may require the right to deduct to be exercised only at the time of the supply, in case of occasional transactions – art. 18.2
- 46) M/S to determine conditions and procedures whereby a taxable person may be authorized to make a deduction – art. 18.3
- 47) M/S may make a refund, carry the excess forward or refuse it and set conditions – art. 18.4
- 48) M/S may include in the denominator the amount of other subsidies – art. 19.1
- 49) M/S may include disposals of capital goods in the calculation of the deductible proportion – art. 19.2
- 50) M/S may require adjustment in cases of transactions remaining totally or partially unpaid and of theft – art. 20.1
- 51) M/S may base the adjustment of capital goods on a period of 5-10 years – art. 20.2
- 52) M/S may waive the requirement for adjustment in some cases – art. 20.3
- 53) M/S may define the concept of capital goods, indicate the tax amount for adjustment, adopt suitable measures and simplify – art. 20.4
- 54) M/S may forego application of article 20.2-3 if effect is insignificant – art. 20.5
- 55) M/S may take all necessary measures to ensure that the taxable person neither benefits nor is prejudiced unjustifiably from a transfer – art. 20.6
- 56) M/S may adopt arrangements whereby tax is payable by someone other than the taxable person residing abroad – art. 21.1a
- 57) M/S may provide that someone other than the taxable person is held jointly and severally liable for payment of the tax – art. 21.1a last sentence (New Major Provision)
- 58) M/S may require that the supplier of services shall be held jointly and severally liable for payment of the tax – art. 21.1b (New Major Provision)
- 59) M/S to determine the criteria for considering whether a document serves as an invoice – art. 22.3c
- 60) M/S to determine the interval within which taxable person shall submit a return – art. 22.4
- 61) M/S may fix a different date for the payment of the amount or may demand an interim payment – art. 22.5
- 62) M/S may require a taxable person to submit a statement concerning transactions carried out – art. 22.6
- 63) M/S to take the necessary measures to ensure that persons liable to pay tax instead of a foreign taxable person shall comply with obligations on declaration and payment – art. 22.7
- 64) M/S may impose obligations for the correct levying and collection of the tax and for prevention of fraud – art. 22.8
- 65) M/S may release taxable persons from certain obligations and from the payment of the tax where the amount is insignificant - art. 22.9
- 66) M/S to lay down rules for the making of the declarations and payments (import)- art. 23
- 67) M/S can apply simplified procedures to small undertakings – art. 24.1
- 68) M/S may retain, grant or increase exemptions or graduated tax relief – art. 24.2
- 69) M/S may exclude certain transactions from exemptions or graduated tax relief – art. 24.3
- 70) M/S may apply to farmers a flat-rate scheme to offset VAT – art. 25.1
- 71) M/S to fix the flat-rate compensation percentages at any level – art. 25.3
- 72) M/S may fix varying flat-rate compensation percentages for forestry, agriculture and fisheries – art. 25.3 second paragraph (New Major Provision)
- 73) M/S may release flat-rate farmers from the obligations imposed upon taxable persons – art. 25.4
- 74) M/S may provide for the flat-rate compensation to be paid in different ways – art. 25.6
- 75) M/S shall make all necessary provisions to check properly the payment of the flat-rate compensation – art. 25.7
- 76) M/S may exclude from the flat-rate scheme certain categories of farmers – art. 25.9
- 77) M/S to lay down rules and conditions for flat-rate farmer to opt for the VAT or the simplified scheme – art. 25.10
- 78) M/S may introduce measures for derogation from the Directive to simplify the procedures or to prevent evasion or avoidance – art. 27.1
- 79) M/S may retain reduced rates and exemptions with refund of the tax paid at the preceding stage in force on 31/12/1975 – art. 28.2
- 80) M/S to adopt the measures necessary to ensure that taxable persons declare the data required to determine own resources relating to operations – art. 28.2 last sentence (New Major Provision)
- 81) M/S may carry out various activities during transitional period – art. 28.3

82) M/S may conclude with a non-member country or an international organization an agreement with derogations from this Directive – art. 30

83) M/S may round the amounts resulting from the conversion from the EUA – art. 31.2

Note: Article 12.4 does not specify M/S, but it is implicit that they are in charge of changing VAT rates; article 22.6 allows M/S to require information, I have included it because, though only about information, it is in a important power supporting taxing power; article 28.2 allows M/S to retain reduced rates and exemptions in force on 31/12/1975, it is included because the wording of the article is such that these measures would otherwise expire by the entry into force of the Directive Title X on exemptions.

Not included: The following articles assert that M/S may retain their provisions. They do not extend powers that they would otherwise been relinquished *in this Directive*. Some articles specify that the issues will eventually be regulated by a Council act (M/S may retain all the exclusions provided for under their national laws, it will be regulated within four years – art. 17.6; M/S may retain their current rules on provisional deductible proportion – art. 19.3; M/S may retain their special schemes for small undertakings, Council may regulate later – art. 24.9; M/S may retain measures for derogation from the Directive to simplify the procedures or to prevent evasion or avoidance – art. 27.5; M/S may retain applying a special system to used goods, works of art, antiques and collectors' items – art. 32; M/S may maintain or introduce non-turnover taxes – art. 33)

Not included: General call on implementation – art. 1; M/S to exempt some activities (obligation) – art. 13.A1, 13.B; M/S to grant to every taxable person the right to a deduction or refund (obligation) – art. 17.3; M/S to fix the uniform basis of assessment (obligation) – art. 25.12;

#### **Number of constraints to M/S**

**Cg = 4**

1) Rule-making requirements: Periods should not exceed 5-2 years – art. 4.3a; Rules on supply of goods – art. 5.1-3; Supply of services – art. 6.1-2; Place of taxable transaction – Title IV; Chargeable event – art. 10.2; Taxable amount – Title VIII; Exemptions and option for taxation – art. 13; Rules on relieving from VAT some transactions – art. 16.1, 16.2; Deducible proportions and deductions – art. 19, 20; Rules on submission intervals – art. 22.4; Conditions for retention of exemption and graduated tax relief – art. 24; Rules on flat-rate percentages – art. 25.5; M/S to apply value added tax to the operations of travel agents (Obligation) – art. 26.1; M/S may round the amounts resulting from the conversion from the EUA by 10%– art. 31.2;

2) Consultation: of the Advisory Committee on Value Added Tax of article 29 – art. 4.4, 6.3, 16.1, 16.2, 17.7, 20.5, 24.1

3) Time Limit: Transitional period last five years – art. 28.4;

4) Legislative action required: M/S needs to inform Commission and Council when introducing simplification measures derogating from the Directive. Measures are approved if, within two months, neither the Commission nor any Member State has requested that the matter be raised by the Council; but if there is referral, the measure cannot be adopted until Council unanimous approval - art. 27

M/S needs to inform Commission on agreements with non-member countries derogating from the Directive. Agreements are approved if, within two months, no Member State has requested that the matter be raised before the Council; but if there is referral, the measure cannot be adopted until Council unanimous approval – art. 30

#### **Provisions delegating authority to Commission**

**Dc = 0**

#### **Number of constraints to Commission**

**Cc = 0**

Not included: Exemption of some territories (No delegation to Commission) – art. 3.2; of government authorities – art. 4.5; Reporting requirements: Commission to produce a report – art. 24.8, 28.4, 34; Consultation Commission to consult M/S – art. 24.8, 34

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**Number** 377L0452

**Title**

**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**

**Description: Mutual recognition of diplomas of nurses**

**Major provisions** M = 36

**Provisions delegating authority** D = 12

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 12

- 1) Host M/S to ensure that other M/S nationals have the right to use their title – art. 5.1
- 2) Host M/S may require title to be followed by name and location – art. 5.1 last sentence (New Major Provision)
- 3) Host M/S may require suitable wording of title if risk of confusion with a title with higher qualification – art. 5.2
- 4) Host M/S may require other M/S nationals judicial records (right of establishment)– art. 6.2
- 5) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment, requirement of good repute, first time) – art. 6.3
- 6) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment, misconduct and criminal offences) – art. 7.2
- 7) Host M/S may require a prior declaration (provision of services) – art. 11.2
- 8) Host M/S may require from the person various documents (provision of services) – art. 11.3
- 9) Host M/S to ensure the withdrawal of the certificate when appropriate (provision of services) – art. 11.5
- 10) M/S to see to it that the persons acquire the necessary linguistic knowledge – art. 15.3
- 11) Host M/S may require confirmation of authenticity and training – art. 16
- 12) M/S to designate competent authorities and bodies – art. 17

Not included: M/S to recognize diplomas – art. 2, 4; Issuance of certificates – art. 6.1, 8; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 14; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 15.1; General call on implementation – art. 19.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Rules on the length of the period sufficient to testify specialty – art. 4; List of documents M/S may require for the provision of services – art. 11.3

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 377L0453

**Title**

**Council Directive 77/453/EEC of 27 June 1977 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of nurses responsible for general care**

**Description: Coordination of provisions in respect of the activities of nurses**

**Major provisions** M = 11

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S to ensure that the institution training nurses is responsible for the coordination of theory and practice throughout the programme – art. 1.3
- 2) M/S may grant partial exemption to persons who have undergone partial training - art. 1.5
- 3) M/S may permit part-time training – art. 2

Not included: M/S to make the award of diplomas of nurses subject to passing an examination with guarantees (obligation) – art. 1.1 General call on implementation – art. 4.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Guarantees of the diploma needed for the profession – art. 1.1, 1.2, 1.3 and Annex; Rule on part-time training – art. 2;

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 377L0486

**Title**

**Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers**

**Description: Education of the children of migrant workers**

**Major provisions**

**M = 7**

**Provisions delegating authority**

**D = 3**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 3**

- 1) M/S shall take appropriate measure to ensure that free tuition to facilitate initial reception to the children – art. 2
- 2) M/S to take the measures necessary for the training of teachers – art. 2 second paragraph (New Major Provision)
- 3) M/S to take appropriate measures to promote teaching of the mother tongue and culture of the country of origin – art. 3

Not included: General call on implementation – art. 4

**Number of constraints to M/S**

**Cg = 1**

1) Reporting requirement: M/S to forward information at regular intervals to the Commission so that a report on implementation is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 5

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 377L0780

**Title**

**First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions**

**Description: Coordination of the laws relating to the business of credit institutions**

**Major provisions** M = 57

**Provisions delegating authority** D = 19

**Number of constraints** C = 6

**Provisions delegating authority to M/S** Dg = 16

- 1) M/S may exempt some credit institutions from some requirements – art. 2.4
- 2) M/S may defer for technical problems the application of the Directive to certain credit institutions – art. 2.5
- 3) M/S to require credit institutions to obtain authorization before commencing their activities – art. 3.1
- 4) M/S to set requirements for the authorisations – art. 3.1 last sentence (New Major Provision)
- 5) M/S may continue to apply the criterion of economic needs of the market – art. 3.3b
- 6) M/S may make the commencement of business subject to authorization – art. 4.1
- 7) Host M/S may require that the name be accompanied by particulars to avoid confusion – art. 5
- 8) Competent authorities to establish ratios between the assets and liabilities for monitoring purposes – art. 6.1
- 9) Competent authorities may lay down ratios applicable to the branches – art. 7.2
- 10) Competent authorities may withdraw the authorization issued to a credit institution or branch – art. 8.1
- 11) M/S may allow credit institutions time to comply with article 3.2 third indent – art. 10.1
- 12) M/S may decide that undertakings which do not fulfil requirements of article 3.2 first indent may continue to carry on their business – art. 10.1 third paragraph (New Major Provision)
- 13) M/S may exempt existing undertakings from article 3.2 third indent - art. 10.1 third paragraph, last sentence (New Major Provision)
- 14) Competent authorities may withdraw the authorization issued to a credit institution or branch, reference to art. 8.1 (existing credit institutions) – art. 10.3
- 15) Competent authorities may require credit institutions without authorization to obtain it– art. 10.4
- 16) Competent authorities may require credit institutions without authorization to comply with article 3.2 second indent and conditions – art. 10.4 last sentence (New Major Provision)

Note: Article 2.4a is written as ‘credit institutions may be exempted’, obviously this is a M/S decision

Note: Article 3.3b asserts that M/S may continue to apply the criterion of economic needs of the market, this prerogative would have otherwise been relinquished as a result of art. 3.3a.

Not included: Article 4.4 asserts that M/S can apply their rules to branches set up on their territory by credit institutions which have their head office there, this is a ‘no prejudice’ provision, no powers would have otherwise been relinquished.

Not included: M/S to require applications for authorization to be accompanied by a programme of operations (obligation) – art. 3.4; M/S to ensure that persons employed by the competent authorities are bound by the obligation of professional secrecy – art. 12.1; General call on implementation – art. 14.1

**Number of constraints to M/S** Cg = 5

- 1) Rules-making requirements: Conditions on the exemption of some credit institutions – art. 2.4a, b; Conditions on granting authorization – art. 3.1; Rules on criterion of economic needs – art. 3.3d; Rules on withdrawal of the authorization – art. 8
- 2) Time limit: M/S may defer the application of the Directive for five-eight years – art. 2.6; M/S may continue to apply the criterion of economic needs of the market for 7-12 years – art. 3.3b, c; M/S may allow credit institutions a maximum of five years to comply with article 3.2 third indent – art. 10.1
- 3) Consultation: of the Advisory Committee – art. 2.6; Consultation of competent authorities in another M/S before withdrawal of authorization – art. 8.4
- 4) Legislative action required: Council to approve a deferment of more than eight years – art. 2.6
- 5) Appeals procedure: Need to give reasons whenever an authorization is refused and notify applicant within six months – art. 3.6; Reasons must be given for any withdrawal of authorization – art. 8.5; M/S to ensure that decisions may be subject to the right to apply to the courts – art. 13

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption: of art. 2.2 (No delegation to Commission); Reporting requirement: Report from the Commission (no delegation) – art. 2.6, 3.3c

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**Number** 377L0796

**Title**

**Council Directive 77/796/EEC of 12 December 1977 aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures intended to encourage these operators effectively to exercise their right to freedom of establishment**

**Description: Mutual recognition of diplomas of goods haulage operators and road passenger transport operators**

**Major provisions** M = 15

**Provisions delegating authority** D = 1

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 1

1) M/S to designate authorities and bodies competent to issue the documents - art. 6

Not included: General call on implementation – art. 1.1, 7.1; Issuance of documents – art. 3.1, 3.2, 3.3; M/S to recognize certificates (obligation) – art. 5.1

**Number of constraints to M/S** Cg = 0

Not included: Rule making requirements: of article 5.1, 5.2 (there is no delegation on this matter)

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 377L0799

**Title**

**Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation**

**Description: Mutual assistance by the competent tax authorities**

**Major provisions** M = 29

**Provisions delegating authority** D = 11

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 11

1) Competent authority may request information - art. 2.1

2) Competent authority to arrange for the conduct of enquiries to obtain information – art. 2.2

3) Competent authorities to determine categories of cases where exchange is automatic – art. 3

4) Competent authorities may extend the compulsory exchange of information to other cases – art. 4.2

5) Competent authority may authorize the presence of other M/S officials in their administration – art. 6

6) Competent authorities to determine the details for exchange of officials – art. 6 last sentence (New Major Provision)

7) M/S may not provide information if receiving M/S does not respect narrower limits on secrecy – art. 7.2

8) Competent authorities may permit information to be used for other purposes in the requesting State - art. 7.3

9) Competent authorities may refuse information if it lead to the disclosure of a commercial secrets or contrary to public policy – art. 8.2

10) Competent authority may refuse to provide information if unable for practical or legal reasons – art. 8.3

11) Competent authorities may permit their designated authorities to communicate directly with each other – art. 9.2

Note: Request of information under article 2 has been included because it is an important power supporting the power to tax; however the optional or compulsory forwarding of information has not been included

Not included: Authorities to exchange information (obligation) – art. 1.1; Competent authority to forward information in some circumstances (obligation) – art. 4.1; Competent authorities may forward information to each other in any other case – art. 4.3, 7.4, 9.2; Competent authority may refuse to furnish the information of art. 5 repeats the more specific art. 8.2 and 8.3; M/S to monitor the cooperation procedure – art. 10; general call on implementation – art. 12.1

**Number of constraints to M/S** Cg = 2

1) Rule making requirements: Detailed rules on secrecy – art. 7.1

2) Consultation: by competent authorities of each other – art. 3, 4.2 (this is additional to the need of mutual agreement)

Not included: the power to conclude mutual agreements in articles 9.2 needs the agreement of another M/S, hence executive action is required, this is however not additional to normal practices of agreements between states

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 378L0473

**Title**

**Council Directive 78/473/EEC of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance**

**Description: Coordination of laws on Community co-insurance**

**Major provisions**

**M = 15**

**Provisions delegating authority**

**D = 2**

**Number of constraints**

**C = 0**

**Provisions delegating authority to M/S**

**Dg = 2**

1) M/S may grant relaxation of the matching assets rule – art. 4.2

2) M/S to ensure that co-insurers keep statistical data on co-insurance operations – art. 5

Not included: Call of cooperation between supervisory authorities of the Member States and between M/S and Commission – art. 6, 8; General call on implementation – art. 10

**Number of constraints to M/S**

**Cg = 0**

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included (No delegation): Exemption: of risks of damage arising from nuclear sources or from medicinal products – art. 1.2; Reporting requirement by the Commission – art. 9

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**Number** 378L0660

**Title**

**Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies**

**Description: Annual accounts of certain types of companies**

**Major provisions**

**M = 115**

**Provisions delegating authority**

**D = 48**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 47**

- 1) M/S may not apply Directive to banks and insurance companies – art. 1.2
- 2) M/S may define the exceptional cases and lay down rules on true and fair view – art. 2.5
- 3) M/S may authorize or require the disclosure in the annual accounts of other information – art. 2.6
- 4) M/S may require subdivision or new items – art. 4.1
- 5) M/S may require adaptations for undertakings forming part of a particular economic sector – art. 4.2
- 6) M/S may require combination of items – art. 4.3
- 7) M/S may provide that the figure for the preceding financial year must be adjusted – art. 4.4
- 8) M/S may prescribe special layouts for accounts of investment and financial holding companies – art. 5.1
- 9) M/S may authorize or require adaptation of layout to include appropriation of profit or treatment of loss – art. 6
- 10) M/S may choose between layouts of balance sheets – art. 8
- 11) National law may provide for formation expenses to be shown as the first item under "Intangible assets" – art. 9B
- 12) M/S may permit companies to draw up abridged balance sheets – art. 11
- 13) M/S to fix the percentage of the capital holding constituting a participating interest – art. 17
- 14) M/S may provide that some income to be included in "Debtors" – art. 18
- 15) M/S may authorize the creation of provisions intended to cover specific charges – art. 20.2
- 16) M/S may provide that specific charges to be included in "Creditors" – art. 21
- 17) M/S may choose between layouts of profit and loss account – art. 22
- 18) M/S may permit companies to adopt different layouts – art. 27
- 19) M/S may permit taxes on the profit or loss to be shown in one item – art. 30
- 20) M/S to ensure items are valued in accordance with general principles – art. 31
- 21) M/S may reserve the power to permit or require in respect of any company different types of valuation – art. 33.1
- 22) M/S may lay down rules governing the application of the revaluation reserve – art. 33.2c
- 23) M/S may permit or require that amount of the value adjustments be shown under the relevant items – art. 33.3
- 24) M/S may allow investment companies to set off value adjustments to investments directly against "Capital and reserves" – art. 36
- 25) M/S may permit derogations from Article 34.1a-b (writing off of expenses) – art. 37.1
- 26) M/S may permit companies to write goodwill off systematically – art. 37.2
- 27) M/S may permit exceptional value adjustments – art. 39.1c
- 28) M/S may apply article 35.4 on interest on capital – art. 39.2
- 29) M/S may permit the purchase price or production cost of stocks to be calculated in various methods – art. 40.1
- 30) M/S need not apply article 43.1(2) on showing names of undertakings to financial holding companies – art. 43.2
- 31) M/S may permit small companies to draw up abridged notes on their accounts – art. 44
- 32) M/S may allow disclosures of undertakings to take some forms or to be omitted – art. 45.1a
- 33) M/S may make omissions subject to prior authorization – art. 45.1b (New Major Provision)
- 34) M/S may permit medium-sized companies to omit the disclosures of net turnover – art. 45.2
- 35) M/S may permit the annual report not to be published in accordance with Article 3 of Directive 68/151 – art. 47.1
- 36) M/S may permit small companies to publish abridged balance sheets and notes – art. 47.2
- 37) M/S may relieve small companies from the obligation to publish profit and loss accounts, annual reports and audit opinions – art. 47.2 last paragraph (New Major Provision)
- 38) M/S may permit medium companies to publish abridged balance sheets and notes with fewer items – art. 47.3
- 39) M/S may relieve small companies from the audit obligation – art. 51.2
- 40) M/S to introduce sanctions for cases in which the annual accounts are not drawn accordingly – art. 51.3
- 41) M/S may extend period of application – art. 55.2
- 42) M/S need not apply some provisions to the dependent companies – art. 57.1
- 43) M/S need not apply some provisions to the dominant companies (audit and publication) – art. 58.1
- 44) M/S may permit the valuation of holdings in affiliated undertakings by the equity method – art. 59
- 45) M/S may prescribe that investments in which investment companies have invested their funds shall be valued on the basis of their market value – art. 60
- 46) M/S may waive the obligation on investment companies with variable capital to show separately the value adjustments – art. 60 second paragraph (New Major Provision)

47) M/S need not apply some provisions to the dominant companies (capital, reserves, profit and losses) – art. 61  
Not included: National law may provide for formation expenses to be shown as the first item under "Intangible assets" is repeated in art. 10B; M/S to fix the percentage of the capital holding constituting a participating interest of art. 17 is repeated in art. 43.1; General call on implementation – art. 55.2

Not included: Article 54 asserts that M/S may maintain laws requiring that annual accounts of companies outside their jurisdiction to be filed in a register in which branches of such companies are listed; this is a 'no prejudice provision' not powers would have been otherwise relinquished.

**Number of constraints to M/S**

**Cg = 2**

1) Rules-making requirements: Rules on the layout of the balance sheet – art. 8-10; turnover value of 1m EUA for abridged balance sheets and notes – art. 11, 12.1, 44; Maximum of 20% for participating interest – art. 17, 43; turnover value of 4m EUA for different profit and loss layouts – art. 27; Rules for valuation – art. 31, 33-42; Rules for not application to dependent companies – art. 57.1, 58.1; Equity method – art. 59

2) Time limit: M/S may extend period of application for 18 months/5-8 years – art. 55.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 378L0686

**Title**

**Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

**Description: Mutual recognition of diplomas, certificates and formal qualifications in dentistry**

**Major provisions**

**M = 45**

**Provisions delegating authority**

**D = 17**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 17**

- 1) Host M/S may require other M/S nationals wishing to acquire diplomas to fulfil the conditions of training of the specialty – art. 6.1
  - 2) Host M/S may require diplomas to be accompanied by a certificate stating that other M/S nationals have been engaged in the activity for a specific period – art. 7.2
  - 3) Host M/S to ensure that other M/S nationals fulfilling conditions have the right to use their title – art. 8.1
  - 4) Host M/S may require name and location to follow the title – art. 8.1 last sentence (new Major Provision)
  - 5) Host M/S may require suitable wording of title if risk of confusion with a title of higher qualification – art. 8.2
  - 6) Host M/S may require other M/S nationals' judicial record (right of establishment) - art. 9.2
  - 7) Competent authority of M/S of origin to appraise and take action on serious matters outside territory of host M/S (right of establishment, no requirement of good repute) – art. 9.3
  - 8) Competent authority of M/S of origin to appraise and take action on serious matters outside territory of host M/S (right of establishment, requirement of good repute) – art. 10.2
  - 9) M/S may provide for automatic temporary registration with or pro forma membership of a professional organization – art. 15.1
  - 10) Host M/S may require from the person a prior declaration on the provision of services (provision of services, temporary stay) - art. 15.2
  - 11) Host M/S may require from the person various documents (provision of services) - art. 15.3
  - 12) M/S to ensure the temporary or permanent withdrawal of the certificate when appropriate (provision of services) - art. 15.5
  - 13) Host M/S may require the supply information on the services provided to public social security body – art. 16
  - 14) M/S to see to it that persons acquire the necessary linguistic knowledge – art. 18.3
  - 15) M/S may impose a preparatory training period for social security dentists – art. 20
  - 16) M/S may require confirmation of authenticity and training – art. 21
  - 17) M/S to designate competent authorities and bodies – art. 22
- Not included: M/S to recognize diplomas (obligation) – art. 2, 4, 7.1, 7.2; M/S to take into account training periods (obligation) - art. 6.2; Issuance of certificates – art. 7.1, 7.2, 9.1, 9.2, 11, 19; M/S to ensure the appropriate form of oath or declaration for other M/S nationals – art. 14; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 18.1; General call on implementation – art. 25.1;

**Number of constraints to M/S**

**Cg = 2**

- 1) Rule-making requirements: Rules on the length of the period sufficient to testify specialty – art. 7.2; List of documents M/S may require for the provision of services – art. 15.3; M/S may impose a maximum six month preparatory training period for social security dentists – art. 20
- 2) Time Limit: M/S can impose, for eight years following the notification of the directive, a preparatory training period for social security dentists – art. 20

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 378L0687

**Title**

**Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of dental practitioners**

**Description: Coordination of provisions in respect of the activities of dental practitioners**

**Major provisions** M = 20

**Provisions delegating authority** D = 6

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S to ensure the minimum requirements of the training for specialized dentistry are met (diploma in specialized medicine) – art. 2.1
- 2) M/S to designate authorities or bodies competent to issue diplomas (specialized dentistry) – art. 2.3
- 3) M/S may derogate from article 2.1a – art. 2.4
- 4) M/S may permit part-time specialist training – art. 3.1
- 5) M/S to ensure that dental surgeons shall be entitled to take up and pursue activities – art. 5
- 6) Some M/S may define or limit the pursuit of certain activities – art. 5 second paragraph (New Major Provision)

Not included: Article 1.4 asserts that nothing in the Directive shall prejudice any facility granted by M/S to authorize holders of diplomas not obtained in a M/S to pursue a medical profession. This is a ‘no prejudice provision’, it does not extend a power that would otherwise have been relinquished.

Not included: M/S to require persons wishing to pursue a medical profession to hold diplomas with guarantees (diploma in dentistry) (obligation) – art. 1.1; M/S to make the award of a diploma in specialized medicine subject to the possession of the diplomas of article 1 - art. 2.2 (obligation, no delegation of powers); Article 4 on part-time training repeats art. 3.1;

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Guarantees of the diploma needed for the profession – art. 1.1, 1.2, 1.3; Requirements of the training for specialized dentistry – art. 2.1; Rule on part-time training – art. 3.2;

Not included: article 3.3 provides for the provisions on part time training to be re-considered after four years, but this does not necessarily imply that part-time training will be revoked (i.e. it is not a time limit constraint); article 4 states a four years period for the maintenance of part-time training, but it is extended in case of no decision by the Council; General call on implementation – art. 8.1

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 378L0855

**Title:** Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54 (3) (g) of the Treaty concerning mergers of public limited liability companies

**Description:** Mergers of public limited liability companies

**Major provisions**

**M = 59**

**Provisions delegating authority**

**D = 28**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 28**

- 1) M/S need not apply the Directive to cooperatives – art. 1.2
- 2) M/S need not apply the Directive to companies subject to bankruptcy or other proceedings – art. 1.3
- 3) M/S to make provision for rules governing mergers – art. 2
- 4) M/S may provide that merger by acquisition may be effected where companies are in liquidation – art. 3.2
- 5) M/S may provide that merger by formation may be effected where companies are in liquidation – art. 4.2
- 6) M/S may provide merger by acquisition require simple majority in some cases – art. 7.1
- 7) M/S need not require approval of merger by the general meeting of acquiring company in some cases – art. 8
- 8) M/S may provide for the exclusion of non-voting shares in calculating the minimum percentage of the subscribed capital - art. 8c (New Major Provision)
- 9) M/S may provide for the appointment of independent experts – art. 10.1
- 10) M/S may provide for no fresh physical inventory and for minimum alterations to valuations – art. 11.2
- 11) M/S to provide for an adequate system of protection of the interests of creditors – art. 13.1
- 12) M/S to provide for a system of protection of the interests of debenture holders, extension of article 13 – art. 14
- 13) M/S to determine the date on which a merger takes effect – art. 17
- 14) M/S may permit acquired company to complete special formalities for the transfer of assets – art. 19.3
- 15) M/S to lay down rules governing civil liability on misconduct in preparing and implementing merger – art. 20
- 16) M/S to lay down rules governing civil liability in respect of misconduct in the performance of duties – art. 21
- 17) M/S may lay down nullity rules – art. 22.1
- 18) M/S may provide for the nullity of a merger to be ordered by an administrative authority – art. 22.2
- 19) Extension of powers under articles 7.1, 10-22 to merger by formation of a new company – art. 23.1
- 20) M/S need not apply to the formation of a new company the rules governing the verification of any non-cash consideration – 23.4
- 21) M/S to make provision for the operation whereby companies transfer all assets and liabilities to another company which is the holder of all their shares conferring the right to vote – art. 24
- 22) M/S need not apply majority rules as referred in article 7 to the operations of article 24 – art. 25
- 23) M/S may apply Articles 24-5 to operations whereby companies transfer all their assets and liabilities to another company if all the shares of the acquired company are held by the acquiring company – art. 26
- 24) M/S need not require approval of the merger by the general meeting in mergers where companies are acquired by another company holds 90 % or more, but not all, shares – art. 27
- 25) M/S need not apply Articles 9-11 to a merger within the meaning of Article 27 – art. 28
- 26) M/S may apply articles 27-8 to operations whereby companies transfer all their assets and liabilities to another company if 90 % or more, but not all, of the shares are held by the acquiring company – art. 29
- 27) M/S need not apply Articles 13-5 as regards the holders of convertible debentures where their position has been determined before provisions enter into force – art. 32.3
- 28) M/S need not apply this Directive to mergers where an act required by national law has already been completed before provisions enter into force – art. 32.4

Not included: M/S to provide merger by acquisition require a two thirds majority (obligation) – art. 7.1; article 13.2 on safeguards for creditors gives minimum requirements for article 13.1; general call on implementation – art. 32.1

Not included: article 22.3 asserts that M/S may maintain rules on the nullity of a merger pronounced following any supervision, this is a 'no prejudice provision', powers would not otherwise been relinquished.

**Number of constraints to M/S**

**Cg = 2**

- 1) Rule-making requirements: 10% rule on the definition of merger – art. 3.1, 4.1; Rules for when single majority may apply – art. 7.1; Conditions for no approval by general meeting of acquiring company – art. 8; rules on the consequences of a merger – art. 19; nullity rules – art. 22.1; conditions for not applying decision rules of article 7 to operations of article 24 – art. 25; conditions for not having the approval from the general meeting – art. 27; conditions for not applying articles 9-11 to a merger within the meaning of article 27 – art. 28;
- 2) Time limit of six months for M/S to permit acquired company to carry out special formalities for the transfer of assets – art. 19.3

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 378L1026

**Title**

**Council Directive 78/1026/EEC of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

**Description: Mutual recognition of diplomas in veterinary medicine**

**Major provisions** M = 36

**Provisions delegating authority** D = 15

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 15

- 1) Host M/S to ensure that other M/S nationals have the right to use their title – art. 5.1
- 2) Host M/S may require title to be followed by name and location – art. 5.1 last sentence (New Major Provision)
- 3) Host M/S may require suitable wording of title if risk of confusion with a title with higher qualification – art. 5.2
- 4) Host M/S may require other M/S nationals judicial records (right of establishment) – art. 6.2
- 5) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment) – art. 6.3
- 6) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment, misconduct and criminal offences) – art. 7.2
- 7) M/S may require either automatic temporary registration or pro forma membership of a professional organization or registration in a register – art. 12.1
- 8) Host M/S may require a prior declaration (provision of services, temporary stay) – art. 12.2
- 9) Host M/S may in all cases require declarations on provision of services by a veterinary surgeon – art. 12.2 first paragraph last sentence (New Major Provision)
- 10) Host M/S to take steps to provide the possibility that the declaration to be made for a series of services – art. 12.2 second paragraph (New Major Provision)
- 11) Host M/S may require from the person various documents (provision of services) – art. 12.3
- 12) Host M/S to ensure the withdrawal of the certificate when appropriate (provision of services) – art. 12.5
- 13) M/S to see to it that the persons acquire the necessary linguistic knowledge – art. 14.3
- 14) Host M/S may require confirmation of authenticity and training – art. 15
- 15) M/S to designate competent authorities and bodies – art. 16

Not included: M/S to recognize diplomas – art. 2, 4; Issuance of certificates – art. 2, 4, 6.1, 8; M/S to take action in consequence on serious matters is repeated in article 10.2; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 11; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 14.1; General call on implementation – art. 18.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Rules on the length of the period sufficient to activity – art. 4; Declaration to be made for a series of services limited to one region, one or more recipients and one year – art. 12.2; List of documents M/S may require for the provision of services – art. 12.3

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 378L1027

**Title**

**Council Directive 78/1027/EEC of 18 December 1978 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of veterinary surgeons**

**Description: Coordination of provisions in respect of the activities of veterinary surgeons**

**Major provisions** M = 8

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

Not included: Article 1.4 asserts that nothing in the Directive shall prejudice any facility granted by M/S to authorize holders of diplomas not obtained in a M/S to pursue the profession. This is a 'no prejudice provision', it does not extend a power that would otherwise have been relinquished.

Not included: Member States to require persons wishing to take up and pursue the profession of veterinary surgeon to hold a diploma with guarantees (obligation) – art. 1.1; General call on implementation – art. 3.1

**Number of constraints to M/S** Cg = 0

Not included: Rule-making requirements: Guarantees of the diploma needed for the medical profession – art. 1.1, 1.2, 1.3 and Annex;

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 378R3180

**Title**

**Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund**

**Description: Adoption of the ECU as unit of account**

**Major provisions** M = 3

**Provisions delegating authority** D = 0

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 0

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 378R3181

**Title**

**Council Regulation (EEC) No 3181/78 of 18 December 1978 relating to the European monetary system**

**Description: Empowerment of the European Monetary Cooperation Fund and national monetary authorities to use the ECU**

**Major provisions** M = 4

**Provisions delegating authority** D = 3

**Number of constraints** C = 0

**Provisions delegating authority to M/S** Dg = 1

1) M/S monetary authorities to use ECU as means of settlement and for transactions – art. 2

Note: article 2 delegates the same powers to both the Fund and M/S monetary authorities

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 379L0007

**Title**

**Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security**

**Description: Equal social security treatment for men and women**

**Major provisions** **M = 15**

**Provisions delegating authority** **D = 3**

**Number of constraints** **C = 3**

**Provisions delegating authority to M/S** **Dg = 3**

- 1) M/S to take the measures necessary to ensure abolition of laws, regulations and administrative provisions contrary to the principle of equal treatment – art. 5
- 2) M/S to introduce measures to enable persons to pursue claims of unequal treatment – art. 6
- 3) M/S may exclude from the scope of the Directive some benefits – art. 7.1

Note: Article 7.1 is, at a first sight, worded as a no prejudice provision, however the provision asserts that M/S can exclude some measures from the Directive's scope, this is a power granted to the M/S as a result of adopting this law.

Not included: Article 4.2 is a 'no prejudice provision', M/S provisions on the protection of women on the grounds of maternity are unaffected, these prerogatives would have not otherwise been relinquished (however, there might be a case that the interpretation of the principle could have unexpectedly led to such an outcome); General call – art. 8.1

**Number of constraints to M/S** **Cg = 3**

- 1) Rule-making requirements Definition of the principle of equal treatment and where it applies– art. 4.1
- 2) Appeals procedure: Article 6 is also a constraint on M/S because it facilitates appeals also against national administrations and its statutory schemes – art. 6
- 3) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 9

Not included: Exemption of survivors' and family benefits – art. 3.2 (no constraint for M/S)

**Provisions delegating authority to Commission** **Dc = 0**

**Number of constraints to Commission** **Cc = 0**

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**Number** 379L0267

**Title**

**First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance**

**Description: Coordination of laws, regulations and administrative provisions on direct life assurance**

**Major provisions** M = 108

**Provisions delegating authority** D = 48

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 48

- 1) M/S to grant an official authorisation to take up the activities of direct life assurance – art. 6.1
- 2) M/S supervisory authorities may restrict authorization to the operations of the scheme of operations – art. 7.2
- 3) M/S may grant authorization for two or more classes – art. 7.3
- 4) M/S may set up undertakings under any form of public law – art. 8.1a
- 5) M/S may reject the designated representative on grounds relating to repute or technical qualifications – art. 10.1d
- 6) M/S supervisory authorities of head office to ensure accounts are not distorted by agreements – art. 13.2
- 7) M/S may require cessation of simultaneous pursuit of activities – art. 13.6
- 8) M/S supervisory authorities to analyse results and ensure compliance – art. 14.1
- 9) M/S supervisory authorities to accept methods of apportionment – art. 14.2a
- 10) M/S supervisory authorities to apply measures, including transfer, to the appropriate deficient activity – art. 14.3
- 11) M/S supervisory authorities of head office to verify solvency – art. 16
- 12) M/S to require, according to its own rules, the establishment and set the amount of technical reserves – art. 17.1
- 13) M/S may permit relaxation in the assets matching and localization rules – art. 17.2
- 14) Luxembourg may retain the existing system of guarantees for technical reserves – art. 17.2 second paragraph (New Major Provision)
- 15) M/S to determine nature of assets, how they cover technical reserves and rules for valuing assets – art. 17.2 third paragraph (New Major Provision)
- 16) Some M/S institutions may ensure compliance with on-the-spot checks – art. 17.2 fourth paragraph (New Major Provision)
- 17) M/S supervisory authority of head office to verify that assets cover liabilities, in the balance sheet, for all the countries where undertaking operates – art. 17.4
- 18) M/S of head offices to require the establishment of a solvency margin – art. 18
- 19) M/S competent authorities to define bases and items of profit – art. 18.3
- 20) M/S supervisory authorities to approve the carrying of hidden reserves in the solvency margin – art. 18.3c (New Major Provision)
- 21) M/S may provide for a reduction of minimum guarantee fund for mutual associations – art. 20.2b
- 22) M/S may permit a progressive establishment of the minimum guaranteed fund for mutual associations just falling within the scope of the legislation – art. 20.2c (New Major Provision)
- 23) Italy may require undertakings to cede part of the underwriting to the INA – art. 22.2
- 24) M/S to require every undertaking to produce an annual account – art. 23.1
- 25) M/S to require undertakings to render the returns and statistical documents periodically – art. 23.2
- 26) National supervisory authority may prohibit free disposal of assets in case of non-compliance with article 17 on technical reserves – art. 24.1
- 27) National supervisory authority of head office to approve a restoration plan of solvency margin – art. 24.2
- 28) National supervisory authority of head office to approve a short-term finance scheme if solvency margin falls below guarantee fund – art. 24.3
- 29) National supervisory authority may prohibit free disposal of assets if solvency margin falls below guarantee fund – art. 24.3 second paragraph (New Major Provision)
- 30) National supervisory authority may take all measures necessary to safeguard interest of policy-holders – art. 24.4
- 31) M/S to allow and approve assignments of portfolio of policies – art. 25.1
- 32) Competent authority may withdraw authorization to head office – art. 26.1
- 33) National supervisory authority to take measures necessary to safeguard interest of policy-holders (e.g. limits on disposal of assets) in case of withdrawal of authorization – art. 26.1 last paragraph (New Major Provision)
- 34) Competent authority may withdraw authorization to agency or branch – art. 26.2
- 35) M/S to grant authorization to set up a business of direct life insurance in its territory (head office outside the Community) – art. 27.1
- 36) M/S to approve general representative (head office outside the Community) – art. 27.2
- 37) M/S to require, according to its own rules, the establishment of adequate technical reserves (head office outside the Community) – art. 28
- 38) M/S to require a solvency margin for agencies and branches (head office outside the Community) – art. 29.1

- 39) Competent authorities to grant advantages (head office outside the Community) – art. 30.3
- 40) Competent authorities to decide withdrawal of advantages (head office outside the Community) – art. 30.4
- 41) M/S may provide that agencies carry on activities of life and non-life insurance simultaneously – art. 31.1b
- 42) M/S may provide that agencies whose head office simultaneously carries on life and non-life insurance activities to carry on – art. 31.1d (New Major Provision)
- 43) Extension of powers under articles 23-4 to agencies with head office outside the Community – art. 31.2
- 44) M/S may extent compliance period by undertakings – art. 33.2a
- 45) M/S may exempt undertakings from establishing minimum guarantee fund – art. 33.2b (New Major Provision)
- 46) M/S supervisory authority to agree financial plan on guarantee fund of subsidiaries – 35
- 47) M/S may retain for undertakings the rules applied on 1/1/79 – art. 36
- 48) M/S to designate authorities competent for the issuance of documents – art. 37.4

Note: The definition of bases and items of profit leads then to a Commission’s proposal, however national authorities are in charged for this definition – art. 18.3

Note: art. 17.2 asserts that Luxembourg may retain the existing system of guarantees for technical reserves, this prerogative would have otherwise been relinquished as result of applying art. 17; Similarly article 36 asserts that M/S may retain for undertakings the rules applied on 1/1/79, otherwise relinquished as a result of Titles II and III, specifically of art. 17;

Not included: These are ‘no prejudice provisions’, powers would have not otherwise been relinquished: M/S may apply provisions requiring directors and managers to be technically qualified and to have other documents approved – art. 8.3; M/S may require approval of conditions, bases and documents – art. 10.3; M/S may take any measure as owners or members of undertakings – art. 21.3

Not included: M/S to require various factors for granting authorization (obligation, constraint on M/S) – art. 8.1, 10.1, 10.2; Issuance of certificates – art. 10.1b, 22, 37.1; M/S to collaborate on supervising financial position of undertakings (this is a general call, article 16 is more specific) – art. 15; General call on collaboration (other paragraphs in the article are more specific) – art. 38; General call – art. 40

**Number of constraints to M/S**

**Cg = 5**

- 1) Rule-making requirements for granting authorization – art. 8.1, 8.2, 10.1, 10.2, 27.2, 31.3; scheme of operations – art. 9, 11; rules for rejecting representatives – art. 10.1; Rule on technical reserves – art. 17.1, 17.2; Rule on solvency margin – art. 18, 19, 29.2; Rules on guarantee fund – art. 20; Conditions for Italy to require undertakings to cede part of the underwriting to the INA – art. 22.2; Rules of withdrawal of authorizations – art. 26; Rules on financial plan on guarantee fund of subsidiaries – 35
- 2) Appeals procedure: Provision for appeal against a refusal to grant authorization – art. 12, 26.3
- 3) Consultation: of the M/S supervisory authority of head office if cessation is requested – art. 13.6b; Supervisory authorities to consult each other before approving assignments or withdrawing authorizations – art. 25.1, 26.2
- 4) Executive action required 1: M/S competent authorities to define bases and items of profit by common agreement – art. 18.3
- 5) Time Limit: M/S may extent compliance by undertakings by two years – art. 33.2a; Exemption from establishing minimum guarantee fund limited to ten years – art. 33.2b; M/S may retain for undertakings the rules applied on 1/1/79 for four years – art. 32

Not included: Exemption: of classes of insurance – art. 2, 3, 4; Compensation: Some undertakings may continue for three years to carry on their business, others forever - art. 33.4, 33.5, 33.6 (These cannot be considered constraints for M/S, check also similar legislation)

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Reporting requirement Report of the Commission (no delegation) – art. 39.1, 39.2

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**Number** 379L0279

**Title**

**Council Directive 79/279/EEC of 5 March 1979 coordinating the conditions for the admission of securities to official stock exchange listing**

**Description: Conditions for the admission of securities to official stock exchange listing**

**Major provisions** M = 45

**Provisions delegating authority** D = 20

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 18

- 1) M/S may decide not to apply the directive to some units and securities – art. 1.2
- 2) M/S to ensure securities are not admitted to official listing if conditions are not satisfied – art. 3
- 3) M/S to ensure issuers admitted to official listing are subject to obligations – art. 3 second indent (New Major Provision)
- 4) M/S may make admission of securities to listing subject to more stringent or additional conditions – art. 5.1
- 5) M/S may make issuers of securities subject to more stringent or additional obligations – art. 5.2
- 6) M/S may authorise derogations – art. 5.3
- 7) M/S may require issuers to inform the public regularly – art. 5.4
- 8) M/S may decide not to apply some conditions and obligations where payment is guaranteed by M/S – art. 8
- 9) M/S to designate authorities competent to decide admission of securities and ensure compliance – art. 9.1
- 10) Competent authority may reject application if detrimental to investors – art. 9.3
- 11) M/S may give authorities powers to make admission of a security subject to special conditions – art. 10
- 12) Competent authority may refuse listing a security listed in another M/S if the issuer fails to comply with national obligations – art. 11
- 13) Competent authority may make public non-compliance – art. 12
- 14) Competent authority may require publication of relevant information – art. 13.2
- 15) Competent authority may decide suspension of listing – art. 14.1
- 16) Competent authority may decide discontinuation of listing – art. 14.2
- 17) Competent authority to approve means to diffuse information about issuers – art. 17.1
- 18) Competent authorities to expedite and simplify process if listing is in more than one M/S – art. 18.2

Note: Even though articles 12 and 13.2 are only about diffusion of information, the power to diffuse such information might considerably affect firm behaviour and policy outcomes

Not included: M/S to ensure that competent authorities have appropriate powers (this is a general call, powers of competent authorities are better specified in other articles) – art. 9.2; Cooperation between competent authorities – art. 18.1; M/S to ensure confidentiality – art. 19.1; General call – art. 22.1

**Number of constraints to M/S** Cg = 3

- 1) Rule-making requirements: rules for admission of securities to official listing – art. 4 and Annex; Conditions for derogation – art. 7; Rules of diffusion of information on issuers – art. 17.1 and Annex
- 2) Consultation of the issuer prior to the diffusion of information – art. 13.2
- 3) Appeals procedures: M/S to ensure the right to apply to the court in case of rejection of listing, specification of conditions of application to the courts – art. 15.1

**Provisions delegating authority to Commission** Dc = 1

- 1) Commission to adjust the minimum amount of the foreseeable market capitalization – art. 21.1

**Number of constraints to Commission** Cc = 1

- 1) Executive Action Required 2: decision to be adopted following the regulatory committee procedure IIIa of art. 21 (Contact committee) - art. 21.1

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**Number** 380L0154

**Title**

**Council Directive 80/154/EEC of 21 January 1980 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in midwifery and including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

**Description: Mutual recognition of diplomas in midwifery**

**Major provisions** M = 39

**Provisions delegating authority** D = 12

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 12

- 1) Host M/S to ensure that other M/S nationals have the right to use their title – art. 6.1
- 2) Host M/S may require title to be followed by name and location – art. 6.1 last sentence (New Major Provision)
- 3) Host M/S may require suitable wording of title if risk of confusion with a title of higher qualification – art. 6.2
- 4) Host M/S may require other M/S nationals judicial records (right of establishment)– art. 7.2
- 5) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment, requirement of good repute, first time) – art. 7.3
- 6) Competent authority of M/S of origin to decide on serious matters and to take action (right of establishment, misconduct and criminal offences) – art. 8.2
- 7) Host M/S may require a prior declaration (provision of services, temporary stay) – art. 13.2
- 8) Host M/S may require from the person various documents (provision of services) – art. 13.3
- 9) Host M/S to ensure the withdrawal of the certificate when appropriate (provision of services) – art. 13.5
- 10) M/S to see to it that the persons acquire the necessary linguistic knowledge – art. 16.3
- 11) Host M/S may require confirmation of authenticity and training – art. 17
- 12) M/S to designate competent authorities and bodies – art. 18

Not included: M/S to recognize diplomas – art. 2.1, 5; Issuance of certificates – art. 4, 7.1, 9; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 14; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 16.1; General call on implementation – art. 20.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Rules on the length of the period sufficient to testify specialty – art. 2.1, 4; List of documents M/S may require for the provision of services – art. 13.3;

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 380L0155

**Title**

**Council Directive 80/155/EEC of 21 January 1980 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action relating to the taking up and pursuit of the activities of midwives**

**Description: Coordination of provisions relating to the activities of midwives**

**Major provisions** M = 13

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S to ensure that the institution training midwives is responsible for the coordination of theory and practice throughout the programme – art. 1.4
- 2) M/S may permit part-time training – art. 2
- 3) M/S to ensure that midwives are at least entitled to take up and pursue a list of activities – art. 4

Not included: M/S to make the award of diplomas of midwives subject to passing an examination with guarantees (obligation) – art. 1.1 General call on implementation – art. 6.1

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Guarantees of the diploma needed for the profession – art. 1.1, 1.2, 1.3 and Annex; Rule on part-time training – art. 2; List of activities that a midwife should take up – art. 4

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Reporting requirement: A report by the Commission (no delegation) – art. 2

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**Number** 380L0390

**Title**

**Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing**

**Description: Coordinating the requirements of the listing particulars**

**Major provisions** M = 58

**Provisions delegating authority** D = 31

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 31

- 1) M/S to ensure that admission of securities to official listing is conditional upon publication of particulars – art. 3
- 2) M/S to ensure that the obligation of publication is incumbent upon the persons responsible for the listing particulars – art. 4.2
- 3) M/S to ensure listing particulars contain at least the information provided for in Schedules A, B or C – art. 5.1
- 4) M/S may allow the authorities responsible for checking the listing particulars to provide for exemption – art. 6
- 5) Competent M/S authorities may authorize omission from the listing particulars of certain information – art. 7
- 6) Competent authorities may provide that the listing particulars shall contain only some information (pre-emptive basis and listed shares) – art. 8.1
- 7) Competent authorities may provide that the listing particulars shall contain only some information (debt securities) – art. 8.2
- 8) Competent authorities may allow the issuer to attach to the listing particulars either the own or the consolidated accounts (debt securities) – art. 8.4
- 9) Competent authorities may provide that the listing particulars shall contain only some information (not convertible, nor exchangeable debt securities) – art. 9.1
- 10) Competent authorities may allow the issuer to attach to the listing particulars either the own or the consolidated accounts (not convertible, nor exchangeable debt securities) – art. 9.3
- 11) Competent authorities may allow the omission from the listing particulars of certain information (debt securities bought and traded in by a limited number of investors) – art. 10
- 12) M/S to determine the financial institutions to be covered by Article 11 - art. 11.2
- 13) M/S may extend the arrangements laid down by Article 11 to other undertakings – art. 11.3
- 14) M/S may provide that the listing particulars shall contain only some information (debt securities issued in a continuous or repeated manner) – art. 12
- 15) Competent authorities may allow abridgement of information where there is more than one guarantor – art. 13.3
- 16) Competent authorities may dispense with the requirement imposed on mergers and takeovers where the transaction referred took place more than two years previously – art. 15.2
- 17) Competent authorities may relieve the issuer of the certificates of the requirement to publish details of its own financial position in some cases – art. 16.2
- 18) Competent authorities may dispense with the publication of some information in case of certificates issued by a securities transfer organization – art. 16.3
- 19) Competent authorities may authorize the abridgement of information where debt securities benefit from the a State unconditional and irrevocable guarantee – art. 17.1
- 20) Extension of article 17.1 to companies with the power to levy charges on their consumers – art. 17.2
- 21) M/S to appoint one or more competent authorities – art. 18.1
- 22) Competent authorities to approve the publication of listing particulars – 18.3
- 23) M/S to ensure that the competent authorities have the powers necessary to carry out their task – art. 18.3 second paragraph (New Major Provision)
- 24) Competent authorities to accept the audit report of the official auditor or to require an additional report – art. 19
- 25) M/S to designate the publication where complete listing particulars or a notice are inserted – art. 20.2
- 26) Competent authorities to lay down the period within which listing particulars must be published – art. 21.1
- 27) Competent authorities may allow the postponement of publication of listing particulars in some cases – art. 21.2
- 28) Competent authorities may require publication of particulars omitting terms in some cases – art. 21.3
- 29) Competent authorities to decide whether notices, bills, posters and documents announcing operation should be submitted to scrutiny – art. 22
- 30) Competent authorities to lay down procedures to publish significant new factors – art. 23
- 31) Competent authorities to exempt issuer from preparation of particulars if its securities have been listed in another M/S less than six months previously – art. 24.2

Note: article 11.3 does not specify who is in charge of such extension, but it is obvious that these are M/S or their competent authorities; Article 24.2 is an obligation, but the exemption is ‘as far as possible’ which implies discretion

Not included: Call for cooperation and information exchange between competent authorities – art. 24.1; Provision on secrecy and confidentiality – art. 25.1; General call – art. 27.1

**Number of constraints to M/S**

**Cg = 1**

1) Rules making requirements: Particulars provided for in Schedules A, B or C of the Annex; list of where exemptions and omissions are possible – art. 6, 7, 8, 9, 11; Rules on when competent authorities may relieve the issuer of the certificates of the requirement to publish details of its own financial position – art. 16.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Exemption of unites and securities (no delegation) – art. 1.2

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**Number** 380L0778

**Title**

**Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption**

**Description: Quality of water for human consumption**

**Major provisions**

**M = 39**

**Provisions delegating authority**

**D = 18**

**Number of constraints**

**C = 5**

**Provisions delegating authority to M/S**

**Dg = 15**

- 1) Competent national authorities to consider parameters that affect the wholesomeness of the foodstuff in its finished form – art. 3
- 2) M/S may prohibit or impede the marketing of foodstuffs if it constitutes a hazard to public health – art. 4.2
- 3) M/S to fix values applicable to water intended for human consumption – art. 7.1
- 4) M/S may refrain from fixing the values of parameters if no value is shown in Annex I - art. 7.2
- 5) M/S to take steps to ensure that water for human consumption at least meets the requirements of Annex I – art. 7.6
- 6) M/S to take measures to ensure substances do not remain in high concentrations or constitute health hazard – art. 8
- 7) M/S may make provision for derogations from this Directive in some cases – art. 9.1
- 8) Competent authorities may allow maximum admissible concentration to be exceeded in emergencies – art. 10.1
- 9) M/S may authorize the maximum admissible concentration to be exceeded when it is obliged to resort to surface water with low concentrations and untreated – art. 10.2
- 10) M/S to ensure that measures do not lead to deterioration in the quality of water or increase in pollution – art. 11
- 11) M/S to take necessary steps to ensure regular monitoring of the quality of water – art. 12.1
- 12) Competent authorities to determine the points of sampling – art. 12.3
- 13) M/S may lay down more stringent provisions – art. 16
- 14) M/S may adopt special provisions regarding information on a water's suitability for the feeding of infants and on the properties of the water – art. 17
- 15) M/S may extend the period for complying with Annex I – art. 20

Not included: M/S to apply the values for the toxic and microbiological parameters listed in Tables D and E respectively of Annex I (obligation) – art. 3; General call on implementation – art. 19

**Number of constraints to M/S**

**Cg = 2**

- 1) Rule-making requirement: Parameters to apply and consider listed in Annex I; Rules for fixing values – art. 7.3-5; Rules on derogations – art. 9.2; Rules for monitoring in Annexes I-III;
- 2) Legislative action required:

If the Commission disagrees with the M/S request to extend the period for complying with Annex I, the Council must decide on a Commission's proposal (this procedure is not very clear in this article but this seems to be a reasonable interpretation) – art. 20

**Provisions delegating authority to Commission**

**Dc = 2**

- 1) Commission to take any appropriate measures upon analysis of information – art. 6.1
- 2) Commission to decide adaptation of the reference methods of analysis, following procedure art. 15 – art. 13

Note: article 6.1 does not specify the measures, it might include decisions

**Number of constraints to Commission**

**Cc = 4**

- 1) Exemption: of some types of waters - art. 4.1
- 2) Rule-making requirement: Reference methods of analysis listed in Annex III;
- 3) Reporting requirements: Commission to draw a comprehensive report for the Member States – art. 6.2
- 4) Executive Action Required 2: changes to be adopted following the regulatory committee procedure IIIa of art. 15 (Committee on the Adaptation to Scientific and Technical Progress) - art. 15

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**Number** 380L0987

**Title**

**Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer**

**Description: Approximation of the laws on the protection of employees in the event of the insolvency**

**Major provisions** M = 20

**Provisions delegating authority** D = 8

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 8

- 1) M/S may exclude claims by certain categories of employee from the scope of this Directive – art. 1.2
- 2) M/S to take measures to ensure that institutions guarantee payment of employees' outstanding claims – art. 3.1
- 3) M/S may limit the liability of guarantee institutions – art. 4.1
- 4) M/S may set a ceiling to the liability for employees' outstanding claims – art. 4.3
- 5) M/S to lay down rules for the organization, financing and operation of the guarantee institutions – art. 5
- 6) M/S may stipulate that Articles 3-5 shall not apply to contributions due under some social security and pension schemes – art. 6
- 7) M/S to take the measures necessary to ensure that non-payment of compulsory contributions does not adversely affect employees' benefit entitlement – art. 7
- 8) M/S to ensure that measures are taken to protect the interests of employees and of persons having already left the employer's undertaking at the date of insolvency – art. 8

Not included: article 9 asserts that the directive shall not affect M/S laws more favorable to employees, this is a 'no prejudice' provision, prerogatives would have not been otherwise relinquished as a result of this Directive; article 10 asserts that the directive shall not affect M/S measures to avoid abuses and refuse or reduce liability in case of special links or common interest between employer and employee, similarly this is a 'no prejudice' provision, prerogatives would have not been otherwise relinquished as a result of this Directive.

**Number of constraints to M/S** Cg = 2

1) Rule-making requirement: Categories of employee that can be exempted are listed in the Annex; Rules for setting the date of the guaranteed period – art. 3.1; Rules for when M/S limit the liability of guarantee institutions (detailed time period for payments) – art. 4.2; Principles for the organization, financing and operation of the guarantee institutions – art. 5

2) Reporting requirement: M/S to forward information to the Commission so that a report on implementation is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 12

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Exemption: of Greenland (No delegation to Commission, no constraint on M/S)

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**Number** 380R1224

**Title**

**Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes**

**Description: Valuation of goods for customs purposes**

**Major provisions**

**M = 66**

**Provisions delegating authority**

**D = 6**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 1**

1) Customs authorities may verify information supplied under article 7 – art. 7.2

Not included: Competent authorities to publish exchange rates – art. 9.1; Competent authorities to prescribe time limits – art. 10.1

**Number of constraints to M/S**

**Cg = 1**

1) Rule-making requirements: Detailed rules to determine the customs value of imported goods – art. 3, 4, 5, 6, 7, 8; Determination of the place of introduction – art. 14; Determination of transport costs – art. 15

Note: Article 12.1 can be considered as expediting the review process as customs administrations need to provide an explanation to the determination of goods, however article 13 states that neither the request nor the explanation referred to in article 12 shall constitute acts capable of activating judicial procedures.

**Provisions delegating authority to Commission**

**Dc = 5**

1) Commission to determine the place of introduction into the Community, following procedure art. 19 – art. 14.2

2) Commission to adopt special provisions for goods sent by post, following procedure art. 19 – art. 15.2a

3) Commission to determine the particulars and documents to be furnished to customs authorities, following procedure art. 19 – art. 16

4) Commission to adopt provisions of part I and annex I of the ‘Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade’, following procedure art. 19 – art. 19.1a

5) Commission may extend the validity of regulations, following procedure art. 19 – art. 22.4

Note: Article 19.1b repeats the provisions of arts. 14-6.

**Number of constraints to Commission**

**Cc = 3**

1) Rule-making requirements: Detailed rules to determine the customs value of imported goods – art. 3, 4, 5, 6, 7, 8; Determination of the place of introduction – art. 14; Determination of transport costs – art. 15

2) Executive Action Required 2: decisions to be adopted following the regulatory committee procedure IIIa of art. 19 (Customs Valuation Committee) - art. 14.2, 15.2a, 16, 19.1a, 22.4

3) Time limit: Validity of regulations can be extended for a maximum of six months beyond 30/6/80 – art. 22.4

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**Number** 381R1390

**Title**

**Council Regulation (EEC) No 1390/81 of 12 May 1981 extending to self-employed persons and members of their families Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community**

**Description: Extension to self-employed persons and family members of Regulation (EEC) No 1408/71 on the application of social security schemes**

**Major provisions** M = 90

**Provisions delegating authority** D = 5

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 5

- 1) Competent M/S authority to give consent for extension of duration of work (paid employment) – art. 1.8 (art. 14.1b)
- 2) Competent M/S authority to give consent for extension of duration of work (self-employed) – art. 1.8 (art. 14a.1b)
- 3) Competent authorities to decide the applicable legislation – art. 1.8 (art. 14a.4)
- 4) M/S may provide for exceptions for certain categories of persons – art. 1.10
- 5) M/S may decide that agreements pursuant Regulation 1408/71 shall apply to the persons to whom this regulation has been extended – art. 3

Note: articles 1.56 to 1.61 amend annexes, since annexes are not counted as major provisions they are excluded from the counting. Counting restarts from article 2.

**Number of constraints to M/S** Cg = 2

1) Time limit: Consent cannot be given for a period exceeding 12 months - art. 1.8 (art. 14.1b, 14a.1b)

2) Rule-making requirements : Detailed definition of "employed person", "self-employed person" etc. – art. 1.2; Rules on the applicable legislation – art. 1.8

Not included: the power to conclude agreements and conventions in articles 1.8 (art. 14a.4) and 1.10 needs the agreement of another M/S, hence executive action is required, this is however not additional to normal practices of agreements between states.

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 381R3795

**Title**

**Council Regulation (EEC) No 3795/81 of 8 December 1981 extending Regulation (EEC) No 574/72 to self-employed persons and members of their families**

**Description: Extension of Regulation 574/72 to self-employed persons and members of their families**

**Major provisions** M = 201

**Provisions delegating authority** D = 43

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 41

- 1) Competent authorities to decide the applicable legislation – art. 1.10 (art. 12a.5a)
- 2) Competent authority to designate the competent sickness insurance institution – art. 1.11 (art. 13.4)
- 3) Competent institution to decide the granting of substantial benefits in kind (sickness and maternity, residence outside competent M/S) – art. 1.14 (art. 17.7)
- 4) M/S may agree between themselves on other implementing provisions (sickness and maternity, residence outside competent M/S) – art. 1.14 (art. 17.9)
- 5) Institution of place of residence to carry out administrative and medical checks (sickness and maternity, residence outside competent M/S) – art. 1.15 (art. 18.4)
- 6) Competent institution to decide to withhold cash benefits and to establish fitness for work (sickness and maternity, residence outside competent M/S) – art. 1.15 (art. 18.6)
- 7) M/S may agree between themselves different implementing provisions (sickness and maternity, residence outside competent M/S) – art. 1.15 (art. 18.9)
- 8) Competent institution to decide the granting of substantial benefits in kind (sickness and maternity, stay outside the competent M/S) – art. 1.16 (art. 20.3)
- 9) Extension of powers under articles 17.7 and 17.9 of Regulation 574/72 (sickness and maternity, stay outside competent M/S) – art. 1.16 (art. 20.5)
- 10) Extension of powers under articles 17.7 and 17.9 of Regulation 574/72 (sickness and maternity, stay outside competent M/S, workers outside article 20) – art. 1.17 (art. 21.2)
- 11) Extension of powers under articles 17.7 and 17.9 of Regulation 574/72 (sickness and maternity, transfer of or return the country of residence) – art. 1.18 (art. 22.2)
- 12) Extension of powers under articles 17.7 and 17.9 of Regulation 574/72 (sickness and maternity, workers authorized to receive treatment in another M/S), reference to articles 22.1 and 22.2 – art. 1.18 (art. 22.3)
- 13) Extension to cash benefits of powers under articles 18.6 and 18.9 of Regulation 574/72 (sickness and maternity, stay outside competent M/S) – art. 1.19 (art. 24)
- 14) Competent institution may pay advance in case of major expenses – art. 1.23 (art. 34.3)
- 15) Institution to investigate claims for invalidity benefits (invalidity, Annex IV acts, benefits independent of duration of insurance periods) – art. 1.28 (art. 39.1)
- 16) Institution to investigate claims for invalidity benefits (invalidity, benefits dependent of duration of insurance periods, insurance of less than one year) – art. 1.30 (art. 43.4)
- 17) Investigating institution to determine the degree of invalidity (invalidity) – art. 1.31 (art. 44.1)
- 18) Competent institution to determine the degree of invalidity if conditions of entitlement are not fulfilled (invalidity) – art. 1.31 (art. 44.2)
- 19) Institution of place of stay or residence to carry out administrative and medical checks (invalidity, old age and death) – art. 1.33 (art. 51.1)
- 20) Competent institution to decide the granting of substantial benefits in kind (work accidents and diseases, residence outside competent M/S) – art. 1.34 (art. 60.6)
- 21) M/S may agree between themselves different implementing provisions (work accidents and diseases, residence outside competent M/S) – art. 1.34 (art. 60.9)
- 22) Institution of place of stay or residence to carry out administrative and medical checks (work accidents and diseases, residence outside competent M/S) – art. 1.35 (art. 61.4)
- 23) Competent institution to decide to withhold cash benefits and to establish fitness for work (work accidents and diseases, residence outside competent M/S) – art. 1.35 (art. 61.6)
- 24) M/S may agree between themselves different implementing provisions (work accidents and diseases, residence outside competent M/S) – art. 1.35 (art. 61.9)
- 25) Competent institution to decide the granting of benefits in kind for posted workers (work accidents and diseases, stay outside the competent M/S) – art. 1.36 (art. 62.3)
- 26) Extension of powers under articles 60.6 and 60.9 of Regulation 574/72, benefits in kind (work accidents and diseases, stay outside competent M/S) – art. 1.36 (art. 62.7)
- 27) Extension of powers under articles 60.6 and 60.9 of Regulation 574/72, benefits in kind (work accidents and diseases, transfer of or return the country of residence) – art. 1.37 (art. 63.2)
- 28) Extension of powers under articles 60.6 and 60.9 of Regulation 574/72, benefits in kind (work accidents and diseases, workers authorized to receive treatment in another M/S), reference to articles 63.1-2 – art. 1.37 (art. 63.3)

- 29) Extension of powers under articles 61.6 and 61.9 of Regulation 574/72, cash benefits (work accidents and diseases, stay outside the competent M/S) – art. 1.38 (art. 64)
- 30) Competent institution to decide the occupational nature of accidents or diseases (work accidents and diseases contracted outside competent state) – art. 1.39 (art. 66.2)
- 31) Competent institution to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases) – art. 1.42 (art. 71.2)
- 32) Competent institutions to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases, more than one competent institution) – art. 1.42 (art. 71.3)
- 33) Competent institutions to approve an increase of cash benefits due to aggravation of disease in cases of sclerogenic pneumoconiosis (work accidents and diseases, more than one competent institution but aggravation in only one M/S) – art. 1.42 (art. 71.4)
- 34) Competent institution to decide pension claims (work accidents and diseases) – art. 1.45 (art. 75.2)
- 35) Competent authorities of two or more M/S may agree on special procedures for payment of family benefits (family benefits) – art. 1.51 (art. 86.4)
- 36) Competent authorities of two or more M/S may agree on special procedures for payment of family benefits (family benefits, unemployed), reference to article 86 of Regulation 574/72 – art. 1.53 (art. 88)
- 37) Competent institution to determine benefit entitlement (children benefits) – art. 1.55 (art. 90.3)
- 38) M/S may agree on other methods to calculate amounts and lump-sums (sickness and maternity) – art. 1.56 (art. 93.6)
- 39) M/S may agree on other methods to determine amounts (sickness and maternity, family benefits in kind, residence outside M/S) – art. 1.57 (art. 94.6)
- 40) France and other M/S may provide for lump sum refund (family allowances) – art. 1.58 (art. 98.2)
- 41) M/S to determine the procedure for implementing transitional provision related to family benefits – art. 1.63 (art. 119.4)

Note: article 2 amends annexes, since annexes are not counted as major provisions they are excluded from the counting. Counting restarts from article 3.

Not included: Issuance of a certified statement – art. 1.3 (art. 6.2), 1.8 (11.1, 11a.1), 1.10 (12.a), 1.11 (13), 1.13 (16.2), 1.14 (17), 1.16 (20), 1.17 (21), 1.18 (22), 1.20 (25.2), 1.28 (39), 1.34 (60), 1.36 (62.6), 1.37 (63.1), 1.46-8 (79,80,82), 1.50 (85), 1.52 (87), 1.54 (89), 1.59 (108); Competent authorities to decide if article 14a.4 of the Regulation is applicable – art. 1.10 (art. 12a.6a) (this power has already been delegated by article 14a.a of the Regulation); Competent institution may require civil status documents (only a request of documents) – art. 1.20 (25.3);

**Number of constraints to M/S**

**Cg = 2**

1) Rules-making requirements: Rules on the aggregation of insurance periods – art. 1.12 (art. 15); Rules on refunds – art. 1.23 (art. 34); Rules to follow when investigating claims – art. 1.30 (art. 43); Rules on the calculation of the amount of benefits, reference to article 46.2 of Regulation 1408/71 – art. 1.30 (art. 43.3); Rules on lump-sum payments – art. 1.57 (art. 94); Rules on lump-sum payments – art. 1.58 (art. 98)

2) Consultation: of the Administrative Commission – art. 1.14 (art. 17.9); 1.15 (18.9), 1.34 (60.9), 1.35 (61.9), 1.57 (94.6)

Not included: Rules on suspension – art. 1.7 (art. 10); the power to conclude agreements and conventions in articles 1.10 (art. 12a.5a), 1.15 (18.9) needs the agreement of another M/S, hence executive action is required, this is however not additional to normal practices of agreements between states;

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 382R0288

**Title**

**Council Regulation (EEC) No 288/82 of 5 February 1982 on common rules for imports**

**Description: Common rules for imports**

**Major provisions**

**M = 76**

**Provisions delegating authority**

**D = 20**

**Number of constraints**

**C = 8**

**Provisions delegating authority to M/S**

**Dg = 12**

- 1) M/S may carry out surveillance at national level – art. 12.1
- 2) M/S may alter import rules – art. 17.1
- 3) M/S may make import subject to import authorization during consultation period – art. 17.2b
- 4) M/S may subject imports not included in the Annex of Reg. 925/79 that the country of purchase and export are covered by this Regulation – art. 19.2a
- 5) Italy may require that countries of origin and export are the same for some countries – art. 19.2b (New Major Provision)
- 6) Italy and Benelux may retain automatic licence and import declaration formalities (Japan and Hong Kong) – art. 19.2d (New Major Provision)
- 7) Some M/S may retain national surveillance and automatic licences for some products (Annex II) – art. 19.2e (New Major Provision)
- 8) Italy may continue the measure on machinery import – art. 19.2f (New Major Provision)
- 9) M/S may change quantitative restrictions (Annex I) – art. 20.1
- 10) M/S may reduce quotas and import in case of extreme urgency – art. 20.4a
- 11) M/S may open additional import facilities in case of extreme urgency – art. 20.4b (New Major Provision)
- 12) M/S may adopt measures on ground of public morality, policy and security and other formalities – art. 21

Note: Articles 19.2d, 19.2e, 19.2f extend the powers to adopt some quantitative restrictions that would otherwise been relinquished as a result of article 1.2, the same applies for article 21.

Not included: M/S to issue documents – art. 11.1; article 20.6 allows Benelux to retain the automatic licence formalities (Annex II), it repeats article 19.2e and adds conditions to it; article 20.5 refers to a unilateral M/S change to import arrangements of petroleum products of Annex I, it adds a constraint to this existing power but, since these products have been exempt from the scope of the Regulation (art. 20.5), it does not extend a power that a M/S would otherwise have relinquished.

**Number of constraints to M/S**

**Cg = 5**

- 1) Consultation: of the Commission and committee prior to adopting surveillance and protective measures at national level, reference to art. 3 – art. 12.1, 17.2; Prior consultation of the committee when changing quantitative restrictions – art. 20.2
- 2) Rule making requirements: Determination of trend of imports, conditions, substantial injury or threat of substantial injury, reference to art. 15.1 which refers to art. 9 – art. 17.1a; Conditions for retaining automatic licence formalities – art. 20.6;
- 3) Executive Action Possible: M/S decision to alter import rules is immediately applicable but the Commission can, within days, take a decision not to introduce the measures or to adopt different ones – art. 17.4
- 4) Time Limit: National protective measures last for a maximum of 3 months – art. 17.4; power under article 17 expires on 31/1/84 – art. 17.5
- 5) Legislative Action Required: If the Commission or a M/S raises objection to the change of quantitative restrictions and urgent measures, the Council has to approve it and the measure is not put into effect until the Council has acted – art. 20.3, 20.4c, 20.5

**Provisions delegating authority to Commission**

**Dc = 8**

- 1) Commission to seek and check all necessary information (power of investigation) – art. 6.2
- 2) Commission to decide the closing of investigations – art. 7.2
- 3) Commission to decide to impose community surveillance on import – art. 10.2
- 4) Commission may fix a different percentage of the value or quantity for free circulation – art. 11.3
- 5) Commission may limit period of validity of import documents – art. 15.1a
- 6) Commission may alter import rules – art. 15.1b (New Major Provision)
- 7) Commission may limit measures to import for certain Community regions – art. 15.3a
- 8) Commission to amend and revoke surveillance and community protective measures – art. 18.2b

Note: article 10 is not very clear but it is reasonable to assume that Commission's decision covers both retrospective and prior surveillance; article 15.3a does not specify that the Commission has the said power, this is an extension of powers under article 15.1

Not included: Commission to decide to have oral consultation within 5-8 days (no power delegated) – art. 5.4; Decisions on protective measures and surveillance are repeated in art. 7.3; Commission may amend the timetable for submitting information – art. 14.2

**Number of constraints to Commission**

Cc = 7

- 1) Exemption: of some products from the scope – art. 1.1
- 2) Consultation: with advisory committee before introduction of measures, checking information – art. 4, 5, 6.2, 7.2, 11.3, 18.2
- 3) Public Hearing of interested parties – hearing of parties when carrying investigations that may lead to surveillance and community protective measures - art. 6.4
- 4) Reporting requirements: Commission to submit a report on the investigation to the advisory committee – art. 7.1
- 5) Rule-making requirements: Determination of trend of imports, conditions, substantial injury or threat of substantial injury – art. 9; Rules on import surveillance – art. 10.2; Percentage should not exceed 10% - art. 11.3
- 6) Legislative action required: Even though Commission’s decisions on import surveillance and protective measures are immediately applicable, upon a M/S referral, within one month, to Council, Council shall confirm, amend or revoke the measure by qualified majority; measure is revoked in case of inaction – art. 15.5-6, 17.4, 18.2
- 7) Time limit: Surveillance measures are valid until the end of the second half calendar year following that of introduction – art. 10.3

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**Number** 382L0489

**Title**

**Council Directive 82/489/EEC of 19 July 1982 laying down measures to facilitate the effective exercise of the right of establishment and freedom to provide services in hairdressing**

**Description: Measures to facilitate the exercise of right of establishment and freedom to provide services in hairdressing**

**Major provisions** M = 14

**Provisions delegating authority** D = 2

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 2

1) Host Member State may require that the activity has been pursued and vocational training received in the same branch (men's vs. women's hairdressing) – art. 2.1

2) M/S to designate authorities competent to issue certificates – art. 5

Not included: Issuance of certificates – art. 2.1b, 3, 4; General call for M/S implementation of the directive provisions – art. 8

**Number of constraints to M/S** Cg = 1

1) Rule-making requirement – detailed criteria for proving professional knowledge and ability – art. 2;

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 382L0891

**Title**

**Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies**

**Description: Division of public limited liability companies**

**Major provisions**

**M = 63**

**Provisions delegating authority**

**D = 28**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 28**

- 1) M/S need not apply the Directive to cooperatives and companies subject to bankruptcy or other proceedings, reference to art. 1.2-3 of Directive 78/855 – art. 1.4
- 2) M/S may provide that division by acquisition may be effected where companies are in liquidation, reference to art. 3.2 of Directive 78/855 – art. 2.2
- 3) M/S may provide that joint and several liability be limited to the net assets allocated to each company – art. 3.3b
- 4) M/S may provide division by acquisition require simple majority in some cases, reference to art. 7 of Directive 78/855 – art. 5.1
- 5) M/S may provide that the minority shareholders may exercise the right to have their shares purchased – art. 5.2
- 6) M/S need not require approval of a division by a general meeting of a recipient company in some cases – art. 6
- 7) M/S may provide for the exclusion of non-voting shares in calculating the minimum percentage of the subscribed capital - art. 6c (New Major Provision)
- 8) M/S may provide for the appointment of independent experts – art. 8.1
- 9) M/S may provide that the reports on the consideration and on the draft terms of division are drawn up by the same experts (division by acquisition) – art. 8.3
- 10) M/S may provide for no fresh physical inventory and for minimum alterations to valuations – art. 9.2
- 11) M/States may permit the non-application of art. 7, 8.1-2, 9.1c-e in some cases – art. 10
- 12) M/S to provide for an adequate system of protection of the interests of creditors – art. 12.1
- 13) M/S need not apply art. 12.3 under some conditions – art. 12.3
- 14) M/S to provide for a system of protection of the interests of debenture holders, extension of article 12.1 – art. 12.5
- 15) M/S may provide that the recipient companies to be jointly and severally liable for the obligations of the company being divided – art. 12.6
- 16) M/S to determine the date on which a division takes effect – art. 15
- 17) M/S may permit acquired company to complete special formalities for the transfer of assets – art. 17.3
- 18) M/S to lay down rules governing civil liability on misconduct in preparing and implementing division – art. 18
- 19) M/S may lay down nullity rules – art. 19.1
- 20) M/S may provide for the nullity of a division to be ordered by an administrative authority – art. 19.2
- 21) M/S need not require the division to be approved by the general meeting of the company being divided in some cases – art. 20
- 22) M/S may provide that division by formation may be effected where companies are in liquidation, reference to art. 4.2 of Directive 78/855 – art. 21.4
- 23) Extension of powers under articles 3.3, 5.1-2, 8.1 and 9-19 to division by formation of new companies – art. 22.1
- 24) M/S may provide that the reports on the consideration and on the draft terms of division are drawn up by the same experts (division by formation of new companies) – art. 22.4
- 25) M/S may provide that articles 8 and 9 shall not apply in some cases – art. 22.5
- 26) M/S may apply provisions of art. 23.2 in some cases – art. 23.1
- 27) M/S need not apply Articles 12-3 as regards the holders of convertible debentures where their position has been determined before provisions enter into force – art. 26.3
- 28) M/S need not apply this Directive to divisions where an act required by national law has already been completed before provisions enter into force – art. 26.4

Note: M/S to provide that joint and several liability be limited to the net assets allocated to each company of article 3.3b is repeated in art. 12.3, 12.7, 19.1h; M/S may provide for the exclusion of non-voting shares in calculating the minimum percentage of the subscribed capital of art. 6c is repeated in art. 20c;

Not included: General call on implementation – art. 26.1; Article 19.3 asserts that M/S may maintain rules on the nullity of a division pronounced following any supervision, this is a ‘no prejudice provision’, powers would not have been otherwise relinquished.

**Number of constraints to M/S**

**Cg = 2**

1) Rule making requirement: Cash payment should not exceed 10% in case of division – art. 2.1, 21.1; Rules for when single majority may apply, reference to art. 7.1 of Directive 78/855 – art. 5.1; Conditions for no approval by general meeting of a recipient or divided company – art. 6, 20; Minimum rules on the protection of the interests of creditors – art. 12; Conditions for not applying art. 12.3 – art. 12.3; nullity rules – art. 19.1; Rules for when art. 8-9 shall not apply – art. 22.5; M/S may apply provisions of art. 23.2 where division operations are subject to the supervision of a judicial authority having various powers – art. 23.1

2) Time limit of six months for M/S to permit divided company to carry out special formalities for the transfer of assets – art. 17.3

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 383R0170

**Title**

**Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources**

**Description: Community system for the conservation and management of fishery resources**

**Major provisions** M = 31

**Provisions delegating authority** D = 7

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 3

1) M/S may exchange all or part of the quotas – art. 5.1

2) M/S to determine rules for the utilization of quotas – art. 5.2 first sentence

3) M/S may retain arrangements of Act of Accession and generalize the six-mile limit – art. 6.1

Note: As from the preambles, derogation from art. 100 of the 1972 Act of Accession was up until 31/12/82, article 6.1 extends it to 31/12/92.

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: Annex I fixes for each M/S the geographical zones and the species – art. 6.1 and Annex I; Generalization of the six-mile limit up to 12 Nautical miles – art. 6.1

2) Time Limit: M/S may retain arrangements of Act of Accession until 31/12/92 – art. 6.1

**Provisions delegating authority to Commission** Dc = 3

1) Commission to set rules to apply article 5.2, following procedure art. 14 – art. 5.2 second sentence (New Major Provision)

2) Commission to set rules for the application and the procedure for the establishment of licenses and the communication of vessels movements, following procedure art. 14 – art. 7.5

3) Commission to set up a scientific and technical committee for fisheries – art. 12

**Number of constraints to Commission** Cc = 3

1) Executive Action Possible – rules to be adopted following the management committee procedure IIa of art. 14 (Management committee for fishery resources) – art. 5.2 second sentence, 7.5

2) Rule-making requirements: Annex II fixes the regions, species and vessels where licensing system applies – art. 7 and Annex II

3) Reporting requirement: Commission to submit a report to the Council and the Parliament – art. 8.1, 8.3, 9.2; report of the scientific and technical committee – art. 12

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**Number** 383L0189

**Title**

**Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations**

**Description: Provision of information on technical standards**

**Major provisions** M = 34

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 1

1) M/S to take measures to ensure that their standards institutions do not draw up or introduce standards in the field in question while the European standard is being drawn – art. 7.1

Not included: M/S to communicate to the Commission draft regulations – art. 8.1, 8.3; General call – art. 12

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 1

1) Commission can request the European standards institutions to draw up a European standard – art. 6.3

Not included: Commission may amend or supplement lists 1 and 2 (no power, the Commission changes the list of the institutions upon communication from M/S) – art. 2.1; Commission to draw up rules for the presentation of information and programmes – art. 2.2; Commission to notify the other Member States of any draft it has received – art. 8.1

**Number of constraints to Commission** Cc = 1

1) Reporting requirement: Commission to submit to the Committee a report – art. 6.1

Not included: Consultation of the Committee – art. 2.2; 6.4, 6.5 (although these are provisions referring to consultation, they are not related to powers delegated to the Commission, the power to request a European standard is only constrained by the need to draft a report)

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**Number** 383L0349

**Title**

**Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts**

**Description: Consolidated accounts**

**Major provisions**

**M = 151**

**Provisions delegating authority**

**D = 61**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 61**

- 1) M/S need not to prescribe that a parent undertaking must be a shareholder of subsidiary – art. 1.1c
- 2) M/S may introduce detailed provisions on form and contents of agreement – art. 1.1d (New Major Provision)
- 3) M/S may make the application of 1.1daa dependent upon holding a share of voting rights – art. 1.1d fourth paragraph (New Major Provision)
- 4) M/S may require undertakings to draw up accounts in case of participating interest – art. 1.2
- 5) M/S may grant exemption if parent undertaking is not a company type listed in art. 4.1 – art. 4.2
- 6) M/S may grant exemption if parent undertaking is a financial holding company – art. 5.1
- 7) M/S may make omission to disclose majority holdings subject to administrative authorization – art. 5.2
- 8) M/S may grant exemption if undertakings to be consolidated do not exceed criteria – art. 6.1
- 9) M/S may require or permit that set-off and elimination to be not effected when limit are calculated – art. 6.2
- 10) M/S may multiply criteria and increase the average number of persons – art. 6.5
- 11) M/S need not to apply the obligation to exempt undertakings – art. 7.1
- 12) M/S may require documents to be published in the official language and certification of translation – art. 7.2b
- 13) M/S need not apply article 7 to companies with securities in the stock exchange – art. 7.3
- 14) M/S may exempt any parent undertaking which is also subsidiary of a parent governed by national law – art. 8.1
- 15) M/S may fix the proportion of subscribed capital owned by shareholders requesting consolidate accounts – art. 8.1 last sentence (New Major Provision)
- 16) M/S may make exemption dependent upon disclosure of additional information requested by national law – art.9.1
- 17) M/S may make exemption dependent upon disclosure of additional information on body of undertakings – art.9.2
- 18) M/S may exempt any parent undertaking which is also a subsidiary of a parent undertaking not governed by national law – art. 11.1
- 19) Extension of powers under art. 7.2b(bb), 8 and 10 to subsidiaries of parent undertakings not governed by national law – art. 11.2
- 20) M/S may require undertakings governed by national law to draw up consolidated accounts and reports – art.12.1
- 21) M/S may permit omission from consolidated accounts of parent undertaking not carrying some activities – art.15.1
- 22) M/S may define the exceptional cases of departure from application of art. 17-35, 39 and lay down rules – 16.5
- 23) M/S may require or permit the disclosure of other information in the consolidated accounts – art. 16.6
- 24) Extension of powers under art. 3-10, 13-26, 28-30 of Directive 78/660 to consolidated accounts – art. 17.1
- 25) M/S may permit stocks to be combined – art. 17.2
- 26) M/S may require or permit set-offs on the basis of the values of identifiable assets and liabilities – art. 19.1b
- 27) M/S may require or permit the shares book values to be set off against capital – art. 20.1
- 28) M/S may allow the eliminations of profits and losses to be effected in percentage of the parent’s capital – art.26.1c
- 29) M/S may permit derogations from art. 26.1c in some cases – art. 26.2
- 30) M/S may require or permit consolidated accounts to be draw up at another date – art. 27.2
- 31) M/S may require or permit an adjusted balance sheet or profit-loss account in case of changes – art. 28
- 32) M/S may require or permit the use of other method of valuation – art. 29.2
- 33) M/S may require or permit that assets are incorporate in the accounts without elimination of adjustment – art.29.5
- 34) M/S may permit a positive consolidation difference to be deducted from reserves – art. 30.2
- 35) M/S may require or permit the inclusion of undertakings that co-manage consolidated undertakings – art. 32.1
- 36) Extension of powers under art. 13-31 to the proportional consolidation of undertakings that co-manage consolidated undertakings – art. 32.2
- 37) M/S may prescribe one of two ways to include participating interests – art. 33.2c
- 38) M/S may require or permit the calculation of the difference as at the date of acquisition or the date of becoming associated undertaking – art. 33.2d (New Major Provision)
- 39) M/S may require revaluation of associated undertaking’s assets and liabilities – art. 33.3
- 40) M/S to fix the percentage of capital for undertakings whose name and registered office must be shown – art.34.5
- 41) M/S may require that emoluments to be included in notes – art. 34.12

- 42) M/S may require that advances and credits to be included in notes – art. 34.13
- 43) M/S may allow some disclosures to take a specific form or to be omitted – art. 35.1
- 44) M/S may make omission to disclose majority holdings subject to administrative authorization – art. 35.1 last sentence (New Major Provision)
- 45) Extension of powers under art. 35.1b to other information – art. 35.2
- 46) M/S may permit or require the disclosure on some annual report particulars in the notes – art. 36.2
- 47) M/S may permit consolidate annual report not to be published in accordance with Article 3 of Directive 68/151, extension of art. 47.1 of Directive 78/660 – art. 38.2
- 48) M/S shall provide for appropriate sanction for failure to comply with publication obligations – art. 38.6
- 49) M/S may require or permit that account be taken of the book value and capital and reserves proportion as at date of first consolidation – art. 39.1
- 50) Extension of powers under art. 39.1 to valuation for the purposes of art. 33.2 of a holding or capital and reserves proportion of an associated undertaking – art. 39.2
- 51) M/S may permit calculations and deduction to be carried out – art. 39.3
- 52) M/S may derogate from provisions (layout, valuation and information provisions) – art. 40.1
- 53) M/S may suspend application of art. 1.1 and permit omissions – art. 40.2
- 54) M/S may apply art. 41.2 to affiliated undertakings even when it does not prescribe consolidate accounts – art.41.3
- 55) M/S may exclude affiliated undertakings from applying art. 41.1 – art. 41.5
- 56) M/S may require or permit participating interests be shown in the balance sheet (annual accounts) – art. 45 (new art. 59.1 of Dir. 78/660)
- 57) M/S may prescribe one of two ways to include participating interests (annual accounts, first application) – art. 45 (new art. 59.2c of Dir. 78/660)
- 58) M/S may require or permit the calculation of the difference as at the date of acquisition or the date of becoming a participating interest (annual accounts) – art. 45 (new art. 59.2d of Dir. 78/660) (New Major Provision)
- 59) M/S may require revaluation of assets and liabilities of participating interests (annual accounts) – art. 45 (new art. 59.3 of Dir. 78/660)
- 60) M/S may require or permit that the proportion of the profit and loss of participating interest be shown only in respect to dividends (annual accounts) – art. 45 (new art. 59.6c of Dir. 78/660)
- 61) Extension of the power of derogations of art. 26.1c to annual accounts in some cases, reference to art. 26.2– art. 45 (new art. 59.7 of Dir. 78/660)

Not included: M/S to require undertakings to draw up consolidated accounts (obligation) – art. 1.1; M/S to prescribe art. 1.1dbb (obligation) – art. 1.1d; article 11.3 does not delegate powers, it imposes conditions for exemption; references in art. 12.3 are limited to consolidated accounts and reports, they do constitute an extension of power; article 43 amends art. 57 of Directive 78/660 and applies it to subsidiaries rather than dependent companies while articles 44 and 46 amend art. 58 and 61 of Directive 78/660 and apply them to dominant rather than parent companies, there is no additional delegation, there is instead in article 45, amending art. 59.1 of Directive 78/660, because it extend powers to annual accounts; General call – art. 49; M/S might decide to apply provision either on 1/1/90 or during 1990 – art. 49.2; Articles 10 and 48 asserts that M/S power to adopt some legislation and laws requiring some accounts of undertakings to be filed in a register are affected, these are a ‘no prejudice provision’, no powers would have otherwise been relinquished.

**Number of constraints to M/S**

**Cg = 2**

1) Rule-making requirements: Rules for drawing up consolidated accounts, voting rights, undertakings – art. 1.1, 2, 3, 4, 12, Section 2; Share of voting rights representing 20% or more of voting rights – art. 1.1dbb; Rules for exemptions – art. 4, 5, 6, 8, 11; Rules for multiplication of criteria and increase the average number of persons – art. 6.5; Proportion of subscribed capital owned by shareholders requesting consolidate accounts should not exceed 10-20%; or to be shown in notes– art. 8.1, 34.5; Rules for setting off shares book values against capital – art. 20.1; Rules to include participating interests – art. 33.2; Conditions for derogations – art. 40.1, 40.2; Rules for excluding affiliated undertakings, reference to art. 4.2 – art. 41.5; Rules for participating interests – art. 45

2) Time Limit: M/S may multiply criteria and increase the average number of persons for 10 years – art. 6.5; M/S need not to apply the obligation to exempt undertakings for 10 years – art. 7.1; Powers under art. 39.1 only for the first consolidated accounts – art. 39; Derogations only until the expiry of the deadline imposed for the application of Directives supplementing Directive 78/660 – art. 40.1, 40.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 384L0253

**Title**

**Eighth Council Directive 84/253/EEC of 10 April 1984 based on Article 54 (3) (g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents**

**Description: Approval of persons responsible for carrying out the statutory audits of accounting documents**

**Major provisions**

**M = 50**

**Provisions delegating authority**

**D = 27**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 27**

- 1) M/S to approve persons carrying out statutory audits – art. 2.1
- 2) M/S may provide that natural persons or firms of auditors must also be approved – art. 2.1b (New Major Provision)
- 3) M/S need not impose the majority rule – art. 2.1b(ii) (New Major Provision)
- 4) M/S may provide for a period of grace for the purpose of meeting the requirements – art. 2.1 last paragraph (New Major Provision)
- 5) M/S may provide that a person who has passed a university examination in one or more of the subjects of art. 6 may be exempted from the theoretical knowledge test – art. 7.1
- 6) M/State may provide that a holder of a university degree in one or more of the subjects of art. 6 may be exempted from the practice test if he has received practical training – art. 7.2
- 7) M/S may permit practical training to be carried out under a person approved by another M/S law – art. 8.1
- 8) M/S to ensure that all training is carried out under persons providing adequate training guarantees – art. 8.2
- 9) M/S may approve persons to carry out statutory audits even if they do not fulfil the conditions of art. 4 – art. 9
- 10) M/S may deduct periods of theoretical instruction from the years of professional activity – art. 10.1
- 11) M/S authorities may approve persons who have obtained their qualifications in another State – art. 11.1
- 12) M/S authorities need not require proof - art. 11.1b (New Major Provision)
- 13) M/S may consider to be approved those professional persons who were approved by previous acts – art. 12.1
- 14) Extension of powers under art. 12.1 to natural persons admitted to a professional association – art. 12.2
- 15) M/S may consider approved those professional persons who have the same qualifications as persons approved by individual acts – art. 13
- 16) M/S may consider to be approved those firms which have been approved by individual acts – art. 14.1
- 17) M/S may approve persons not approved by individual acts, but qualified and in activity – art. 15
- 18) M/S may apply transitional measures for persons not able to carry out audits with new provisions – art. 16
- 19) M/S may apply transitional measures for persons already undergoing training – art. 18
- 20) M/S may specially approve some natural persons acting in their own names – art. 20
- 21) M/S may specially approve a person to carry out audit of consolidated accounts – art. 21
- 22) M/S may allow the practical training of art. 20 persons to be completed under an approved person – art. 22
- 23) M/S to prescribe that approve persons carry out such audits with professional integrity – art. 23
- 24) M/S to prescribe that such persons shall not carry out statutory audits if they are not independent – art. 24
- 25) M/S to ensure that approved persons are liable to appropriate sanctions – art. 26
- 26) M/S to ensure that shareholders and members of various bodies not satisfying conditions do not intervene in the execution of audits – art. 27
- 27) M/S to ensure names and addresses of persons and firms of auditors are available to the public – art. 28.1

Note: M/S may provide that natural persons or firms of auditors must also be approved is repeated in point (i) and (ii) of art. 2.1b

Not included: General call, provisions not applying until 1/1/90 – art. 30.1, 30.2

**Number of constraints to M/S**

**Cg = 2**

1) Rule-making requirements: Rules for the approval of persons carrying out statutory audits – art. 2.1, 3, 4, 5, 6, 8.1; Rules for not imposing the majority rule – art. 2.1(1bii); Rules for when M/S approve persons to carry out statutory audits when they do not fulfil the conditions of art. 4 (e.g. 15-7 years experience) – art. 9; Rules for deduction – art. 10; Conditions for approving persons who have obtained their qualifications in another State – art. 11; Rules for to M/S specially approve some natural persons – art. 20, 21

2) Time limit: M/S may provide for a period of grace of not more than two years – art. 2.1; Powers under article 13 only until the application of provision implementing this directive – art. 13; M/S may approve persons not approved by individual acts, but qualified and in activity until one year after the application of the Directive provisions – art. 15; M/S may apply transitional measures for one-six year after the application of the Directive provisions – art. 16, 18;

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 384L0450

**Title**

**Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising**

**Description: Misleading advertising**

**Major provisions**

**M = 14**

**Provisions delegating authority**

**D = 4**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 4**

- 1) M/S to ensure that adequate and effective means exist for the control of misleading advertising – art. 4.1
- 2) M/S to confer upon the courts or administrative authorities powers enabling them to order cessation or prohibition of misleading advertising – art. 4.2
- 3) M/S may confer upon the courts or administrative authorities powers enabling them to require publication of that decision and to require a corrective statement – art. 4.2 last paragraph (New Major Provision)
- 4) M/S to confer upon courts or administrative authorities powers enabling them to require evidence and to consider factual claims as inaccurate if evidence is not furnished or is insufficient – art. 6

Not included: article 7 asserts that the directive shall not preclude M/S retaining or adopting provisions with more extensive protection, this is a ‘no prejudice provision’, powers would have not been otherwise relinquished.

Not included: M/S to make provision for the measures to be taken under an accelerated procedure (powers have already been delegated in the first subparagraph of art. 4.2, this is more similar to a condition); General call – art. 8

**Number of constraints to M/S**

**Cg = 2**

- 1) Rules making requirements: Definition of misleading advertising – art. 3; Conferral of powers must include an accelerated procedure – art. 4.2; Rules on the administrative authorities – art. 4.3
- 2) Appeals procedure: Administrative authority must give reasons of decision and there shall be provisions for procedures whereby improper or unreasonable exercise of powers or improper or unreasonable failure to exercise the powers can be the subject of judicial review – art. 4.3

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 384R2641

**Title**

**Council Regulation (EEC) No 2641/84 of 17 September 1984 on the strengthening of the common commercial policy with regard in particular to protection against illicit commercial practices**

**Description: New commercial policy instrument against illicit practices**

**Major provisions** **M = 49**

**Provisions delegating authority** **D = 8**

**Number of constraints** **C = 6**

**Provisions delegating authority to M/S** **Dg = 0**

Not included: M/S may ask the Commission to initiate the procedures (only a procedural right, no powers delegated) – art. 10.1; obligation to supply information – art. 6.3

**Number of constraints to M/S** **Cg = 0**

**Provisions delegating authority to Commission** **Dc = 7**

- 1) Commission to decide the opening of the examination procedure and conduct it – art. 6.1
- 2) Commission to seek and check all necessary information (complementary power of investigation) – art. 6.2
- 3) Commission to decide that the interests of the Community do not require any action to be taken, following procedure of article 12 – art. 9.1
- 4) Commission may decide to terminate international consultation or dispute settlement procedures, upon appropriate third country measures, following procedure art. 12, as referred in art. 11.2a – art. 9.2a
- 5) Commission to supervise measures, request and check information on third countries measures – art. 9.2b (New Major Provision)
- 6) Commission may decide the initiation or conduct of international consultation or dispute settlement procedures if third country measures are rescinded or suspended, following procedure art. 12, as referred in art. 11.2a – art. 9.2c (New Major Provision)
- 7) Commission may decide the initiation or conduct of international consultation or dispute settlement procedures to respond to illicit commercial practices, following procedure art. 12, as referred in art. 11.2a – art. 10.1

Not included: Commission's decision on the opening of the examination procedure is repeated in art. 6.1 and 6.8;

**Number of constraints to Commission** **Cc = 6**

- 1) Rule-making requirements: Definition of Community industry – art. 2.4; Rules for examination of injury and threat thereof – art. 8; List of measures where international consultation or dispute settlement procedures has to be discharged – art. 10.3
- 2) Consultation: of the advisory committee – art. 5, 6.1, 9.1; cooperation with M/S – art. 6.1c
- 3) Public hearing of interested parties – hearing of parties when carrying examination of illicit practices - art. 6.1a, 6.5, 6.6
- 4) Reporting requirements: Commission to present a report to the Committee on the investigation – art. 6.9
- 5) Legislative action possible: Procedure of art. 12, similar to safeguard procedure IVa. Commission adopts a decision which is applicable after 10 days, however the measure is suspended if a M/S refers is to the Council which may revise the Commission's decision by qualified majority (Commission's measure stands in case of Council inaction) – art. 9.1, 9.2a, 9.2c, 10.1
- 6) Exemptions: of cases covered by other existing rules in the common commercial policy field – art. 13

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**Number** 385L0374

**Title**

**Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products**

**Description: Liability for defective products**

**Major provisions**

**M = 32**

**Provisions delegating authority**

**D = 3**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 3**

- 1) M/S may provide that 'product' also means primary agricultural products and game – art. 15.1a
- 2) M/S may provide (or maintain) that the producer shall be liable even if he proves the state of scientific knowledge was not such as to enable discovery of the defect – art. 15.1b (New Major Provision)
- 3) M/S may provide that a producer's total liability for damage resulting from a death or personal injury and caused by identical items with the same defect shall be limited to an amount – art. 16.1

Not included: M/S to provide in their legislation that a limitation period of three years shall apply to proceedings for the recovery of damages (obligation) – art. 10.1; M/S to provide that the rights conferred upon the injured person be extinguished upon the expiry of a period of 10 years (obligation) – art. 10.2; General call – art. 19

**Number of constraints to M/S**

**Cg = 2**

- 1) Rules-making requirements: Definition of defective product – art. 6.1, 7; Definition of damage – art. 9; Amount may not be less than 70 million ECU – art. 16.1
- 2) Legislative action possible: After M/S notify the Commission about wishing to introduce measures pursuant to art. 15.1b, the measure is in abeyance for nine months. If, within three months, Commission notifies M/S about its intention to submit a proposal and, it submits a proposal within nine months, M/S must hold the proposed measure in abeyance for a further period of 18 months. M/S can put measure into effect in case of no notification or proposal – art. 15.2 (not really immediate....could also fall under Executive Action Possible, by the Commission)

Not included: Exemption of injury or damage arising from nuclear accidents and covered by international conventions – art. 14; of products put into circulation before the date on which the provisions – art. 17 (these are not constraints on M/S)

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Reporting requirement: Commission to submit to the Council a report on the effect of rulings by the courts and on the financial limit on liability – art. 15.3, 16.2; Commission to submit a general report – art. 21 (there is no delegation to Commission)

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**Number** 385L0384

**Title**

**Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

**Description: Mutual recognition of diplomas, certificates and other formal qualifications in architecture**

**Major provisions**

**M = 57**

**Provisions delegating authority**

**D = 15**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 14**

- 1) Luxembourg can suspend application of articles 10, 11 and 12 – art. 15
- 2) Host M/S to ensure that the other M/S nationals have the right to use their academic title – art. 16.1
- 3) Host M/S may require title to be followed by name and location – art. 16.1 last sentence (New Major Provision)
- 4) Host M/S may require suitable wording of title if risk of confusion with a title of higher qualification – art. 16.2
- 5) Host M/S may require other M/S nationals judicial records (right of establishment)– art. 17.2
- 6) Authority of M/S of origin to decide on serious matters and to take action (right of establishment, requirement of good repute, first time) – art. 17.4
- 7) Authority of M/S of origin to decide on serious matters and to take action (right of establishment, misconduct and criminal offences) – art. 18.2
- 8) M/S may require automatic temporary registration or pro forma registration – art. 22.1
- 9) Host M/S may require from the person a prior declaration on the provision of services (provision of services, projects) - art. 22.2
- 10) Host M/S may require from the person various documents (provision of services) - art. 22.3
- 11) M/S to ensure the temporary or permanent withdrawal of the certificate when appropriate (provision of services) - art. 22.5
- 12) M/S to ensure that the persons concerned acquire the linguistic knowledge – art. 26.3
- 13) M/S may require confirmation of authenticity and training – art. 27
- 14) M/S to designate competent authorities and bodies – art. 28

Note Article 15 is worded as an authorization for Luxembourg, however this is an extension of their domestic legislation on recognition of diplomas that would otherwise expire (hence, related powers would otherwise been relinquished) as a result of this Directive.

Not included: M/S to recognize diplomas (obligation) – art. 2, 10, 12; Issuance of certificates – art. 4.1, 5.2, 11, 12, 17.2, 17.3, 23.2; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 21; M/S to take necessary measures to enable information diffusion (e.g. through establishment of information centres) – art. 26.1, 26.2; General call – art. 30

**Number of constraints to M/S**

**Cg = 2**

- 1) Rules-making requirements: Minimum requirements for architects (areas and length of study) – art. 3, 4; Lists of documents required for the provision of services – art. 22.3
- 2) Time limit: Luxembourg can suspend application of articles 10, 11 and 12 for a transitional period of four-and-a-half years – art. 15

**Provisions delegating authority to Commission**

**Dc = 0**

Not included: Commission to withdraw a diploma from one of the lists (obligation, no power delegated) – art. 9.2

**Number of constraints to Commission**

**Cc = 0**

Not included: Reporting requirements: Commission shall submit a report to the Council on the application of the derogation of art. 4.1 (no delegation)

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**Number** 385L0432

**Title**

**Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of certain activities in the field of pharmacy**

**Description: Coordination of provisions in respect of activities in the field of pharmacy**

**Major provisions** M = 14

**Provisions delegating authority** D = 3

**Number of constraints** C = 2

**Provisions delegating authority to M/S** Dg = 3

1) M/S to ensure that diploma holders in pharmacy are entitled to access and pursue some activities - art. 1.1

2) M/S may oblige other M/S nationals to take part to the competition system – art. 1.3

3) M/S may make provision for no more than half of training period to involve activities as a pharmacist in an undertaking which manufactures medicinal products – art. 2.4b

Not included: Article 1.3 asserts that M/S may retain their competition system to appoint holders of diplomas to control new pharmacies, it does not seem from the Directive that this power would have otherwise been relinquished as a result of this Directive; General call – art. 5.1

**Number of constraints to M/S** Cg = 2

1) Rule-making requirements: List of activities pharmacists are entitled to – art. 1.2; Minimum requirements on knowledge and training – art. 2;

2) Time limit: M/S may make provision for no more than half of training period to involve activities as a pharmacist in an undertaking which manufactures medicinal products for a period of five years – art. 2.4b

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 385R2137

**Title**

**Council Regulation (EEC) No 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG)**

**Description: European Economic Interest Grouping**

**Major provisions**

**M = 87**

**Provisions delegating authority**

**D = 17**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 16**

- 1) M/S to determine whether or not groupings registered at their registries have legal personality – art. 1.3
- 2) M/S may provide that groupings registered at its registries may have no more than 20 members – art. 4.3
- 3) M/S may provide that each member of a legal body formed under its laws shall be treated as a separate member of a grouping – art. 4.3 last sentence (New Major Provision)
- 4) M/S may prohibit or restrict participation in groupings by certain classes of persons, companies or other legal bodies – art. 4.4
- 5) M/S may provide that the transfer which would result in a change of the law applicable shall not take effect if a competent M/S authority opposes it – art. 14.4
- 6) M/S may provide that legal persons may be managers on condition that such legal persons designate one or more natural persons to represent them – art. 19.2
- 7) M/S may provide, in case of its liquidation, winding up, insolvency or cessation of payments laws, that a member shall cease to be a member of any grouping at the moment determined by those laws – art. 28.1
- 8) M/S may provide that the court may, on application by a competent authority, order the winding up of a grouping wherever it acts in contravention of that State's public interest – art. 32.3
- 9) M/S may lay down a longer period of limitation for actions against members in connection with debts and other liabilities arising out of the grouping's activities before they ceasing being members – art. 37.1
- 10) M/S may lay down a longer period of limitation for actions against a member of the grouping in connection with debts and other liabilities arising out of the grouping's activities – art. 37.2
- 11) M/S competent authority may prohibit any activity in contravention of that State's public interest – art. 38
- 12) M/S to designate the registry or registries responsible for effecting the registration and to lay down rules on registration – art. 39.1 first sentence first paragraph
- 13) M/S to prescribe the conditions for filing and publication of documents – art. 39.1 last sentence first paragraph (New Major Provision)
- 14) M/S to ensure that anyone may inspect the documents – art. 39.1 second paragraph (New Major Provision)
- 15) M/S may provide for the payment of fees – art. 39.1 last paragraph (New Major Provision)
- 16) M/S to provide for appropriate penalties in case of non-compliance – art. 39.3

Note: Article 37.1, 37.2 specify that national law lay down the various facts, this implies that it is M/S responsibility.

Not included: M/S to ensure that the information is forwarded to the Office for Official Publications – art. 39.2; General call – art. 41.1; M/S to inform the Commission of the classes of natural persons, companies, firms and other legal bodies which they prohibit from participating in groupings – art. 41.2

**Number of constraints to M/S**

**Cg = 2**

- 1) Rules making-requirement: Opposition to transfer may be based only on grounds of public interest – art. 14.4; M/S must provide that representatives shall be liable as if they were themselves managers of the groupings concerned – art. 19.2; Restriction on representatives – art. 19.2
- 2) Appeals procedure: Review by a judicial authority of opposition to transfer must be possible – art. 14.4; Review of competent authority's decision on public interest by a judicial authority shall be possible – art. 38

**Provisions delegating authority to Commission**

**Dc = 1**

- 1) Establishment of a Contact Committee under the auspices of the Commission – art. 42.1

**Number of constraints to Commission**

**Cc = 0**

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**Number** 386L0378

**Title**

**Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes**

**Description: Equal treatment for men and women in occupational social security schemes**

**Major provisions** M = 19

**Provisions delegating authority** D = 5

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 5

- 1) M/S to ensure that provisions contrary to the principle of equal treatment in collective agreements, staff rules and arrangements on occupational schemes are null, void or amended – art. 7a
- 2) M/S to ensure that schemes containing discriminatory provisions may not be approved or extended by administrative measures – art. 7b (New Major Provision)
- 3) M/S may defer compulsory application of the principle of equal treatment – art. 9
- 4) M/S to introduce measures to enable persons to pursue claims of unequal treatment – art. 10
- 5) M/S to take necessary measures to protect against dismissal in reaction to an equal treatment complaint – art. 11

Not included: Article 5.2 is a ‘no prejudice provision’, M/S provisions on the protection of women on the grounds of maternity are unaffected, these prerogatives would have not otherwise been relinquished (however, there might be a case that the interpretation of the principle could have unexpectedly led to such an outcome);

Not included: M/S to ensure that the provisions of occupational schemes contrary to the principle of equal treatment are revised by 1/1/93 (this provision set a deadline for art. 7) – art. 8.1; General call on implementation – art. 12.1

**Number of constraints to M/S** Cg = 4

1) Rule-making requirement: Definition of the conditions underlying the principle of equal treatment – art. 5.1, 6.1

2) Time limit: M/S may defer compulsory application of the principle of equal treatment for the first subparagraph of Article 6.1(i) for thirteen year – art. 9c

3) Appeals procedure: Articles 10 and 11 are also constraints on M/S because they facilitate appeal also against national administrations

4) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 12.2

Not included: Exemption: of contracts and schemes – art. 2.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 386L0613

**Title**

**Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood**

**Description: Application of the principle of equal treatment in self-employment**

**Major provisions** M = 15

**Provisions delegating authority** D = 6

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 6

- 1) M/S to take measures to ensure the elimination of provisions contrary to the principle of equal treatment in self-employment – art. 4
- 2) M/S to take measures to ensure that conditions for company formation between spouses are not more restrictive than the conditions for company formation between unmarried persons – art. 5
- 3) M/S to take measures to enable spouses to join voluntarily contributory social security schemes – art. 6
- 4) M/S to examine and encourage conditions of recognition of the work of the spouses – art. 7
- 5) M/S to undertake to examine whether female self-employed workers may have access to services or be entitled to cash benefits during motherhood – art. 8
- 6) M/S to introduce measures to enable persons to pursue claims of unequal treatment in self-employment – art. 9

Not included: M/S to ensure that measures adopted are brought to the attention of bodies representing self-employed workers and vocational training centres – art. 10

**Number of constraints to M/S** Cg = 3

1) Rule-making requirements: Definition of the principle of equal treatment, reference to art. 3.1 and 5.1 of Directive 76/207 – art. 4

2) Appeals procedure: Article 9 is also a constraint on M/S because they facilitate appeal also against national laws regulating self-employment

3) Reporting requirement: M/S to forward information to the Commission so that a report is drawn up (the Commission is responsible for the report but this is not a constraint for the Commission as there is no delegation, it is a constraint on M/S because it is similar to a request for M/S to report to the Commission the measures taken) – art. 13

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

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**Number** 386R4056

**Title**

**Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport**

**Description: Competition rules extended to maritime transport**

**Major provisions**

**M = 75**

**Provisions delegating authority**

**D = 26**

**Number of constraints**

**C = 6**

**Provisions delegating authority to M/S**

**Dg = 2**

1) M/S authorities to retain the power to decide whether cases falls within Treaty art. 85.1 or 86 – art. 14

2) M/S to take the necessary measures to assist the Commission – art. 18.6

Note: Article 14 asserts that national authorities remain competent to apply Treaty art. 85.1 and 86, it extends the powers of national authorities that they would have otherwise relinquished as a result of applying article 14.

Not included: M/S authorities to exercise their powers upon Commission's request – art. 17.1 (this is an obligation and it does not delegate power beyond Treaty art. 88)

**Number of constraints to M/S**

**Cg = 2**

1) Time Limit: M/S authorities to retain the power to decide whether cases falls within Treaty art. 85.1 or 86 until Commission action – art. 14

2) Consultation: M/S to consult the Commission before taking the necessary measures to assist it – art. 18.6

**Provisions delegating authority to Commission**

**Dc = 23**

1) Commission may adopt a decision to end a breach of art. 5 obligations attached to art. 3 exemptions – art. 7.1

2) Commission to negotiate with third country if competition is absent or eliminated as result of a third country action – art. 7.2c first paragraph

3) Commission to withdraw exemption benefits and set conditions for individual exemption if agreements have effects incompatible with the Treaty art. 85.3b – art. 7.2c second paragraph (New Major Provision)

4) Commission may adopt a decision to end an agreement with effects other than those of art. 7.2cii(i) – art. 7.2c last paragraph (New Major Provision)

5) Commission may withdraw exemption benefits and take measures to end infringements of Treaty art. 86 (abuse of dominant position) - art. 8.2

6) Commission to negotiate agreement with third countries in case of conflicts of international law – art 9.2

7) Commission may by decision require the undertakings to bring infringement of Treaty art. 85.1 and 86 to an end (complaint or own initiative procedure) – art. 11.1

8) Commission to issue decision rejecting unfounded complaint (complaint or own initiative procedure) – art. 11.3

9) Commission to issue decisions applying Treaty art. 85.3 (complaint or own initiative procedure) - art. 11.4

10) Commission to issue a decision applying Treaty art. 85.1 (procedure for Treaty art. 85.3) - art. 12.3

11) Commission shall issue a decision applying Treaty art. 85.3 (procedure for Treaty art. 85.3) - art. 12.4

12) Commission may renew decision if the conditions for applying Treaty art. 85.3 remain satisfied – art. 13.2

13) Commission may revoke or amend its decision or prohibit specified acts by the parties – art. 13.3

14) Commission may obtain all necessary information from M/S and undertakings (a supporting power of investigation) – art. 16.1

15) Commission can require information by decision if undertakings do not co-operate – art. 16.5

16) Commission can request M/S authorities to undertake investigations – art. 17.1

17) Commission may undertake all necessary investigations – art. 18.1

18) Commission can use the power of decision to undertake investigations – art. 18.3

19) Commission may by decision impose fines if incorrect or misleading information is supplied – art. 19.1

20) Commission may by decision impose fines when undertakings infringe, breach or not comply – art. 19.2

21) Commission may by decision impose on undertakings periodic penalty payments – art. 20.1

22) Commission may fix the total amount of the periodic penalty payment at a lower figure than that of original decision – art. 20.2

23) Commission's power to adopt implementing provisions (more extensive than a simple call for execution, similar to a power to decide procedures) – art. 26

Note: article 11.2 repeats the powers delegated under art. 7; Article 13.2 does not specify that the Commission may renew decision but it is obvious that it is so.

**Number of constraints to Commission**

**Cc = 5**

- 1) Exemption: of tramp vessel services – art. 1.2;
  - 2) Rule-making requirements Rules governing exemptions – art. 5; Decisions to be taken under conditions laid down in Section II – art. 7.1, 7.2; Special circumstances – art. 7.2b; Validity of decisions of at least six years – art. 13.1; Cases when Commission may revoke or amend its decision or prohibit specified acts by the parties – art. 13.3; Limits on fines and periodic penalties – art. 19, 20; types of agreements where Treaty articles do not apply – art. 3, 6
  - 3) Legislative action required: Negotiations are carried out under authorization and directives to be given by the Council - art. 7.2c first paragraph, 9.2
  - 4) Consultation : of the Advisory committee – art. 9.2, 15.3, 19.3, 20.3; consultation with the competent authority of the M/S – art. 18.4
  - 5) Public hearing of interested parties: for the application of Treaty art. 85.3 – art. 12.2; hearing of parties and third persons before taking decision – art. 23
- Not included: reference to ECJ review do not go beyond the Treaty – art. 14, 16.5, 18.3, 21; report in art. 15.6 is part of the consultation proceedings

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**Number** 387R2658

**Title**

**Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff**

**Description: Tariff and statistical nomenclature and the Common Customs Tariff**

**Major provisions** M = 33

**Provisions delegating authority** D = 8

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 3

1) M/S may insert subdivisions after the CN and Taric subheadings for national purposes – art. 5.3

2) M/S may defer the use of Taric subheadings – art. 5.4

3) Spain and Portugal may not apply the Taric – art. 13

Note: Article 13 is worded as an authorization for Spain and Portugal, however this is an extension of their domestic legislation on tariff that would otherwise expire (hence, related powers would otherwise been relinquished) as a result of this Regulation.

**Number of constraints to M/S** Cg = 1

1) Time Limit: M/S may defer the use of Taric subheadings and digits until 31/12/1989; Spain and Portugal may not apply the Taric for the transitional period set by the Act of Accession – art. 13

**Provisions delegating authority to Commission** Dc = 4

1) Commission to establish an integrated tariff, i.e. the 'Taric', based on the combined nomenclature – art. 2

2) Commission to integrate measures into the Taric, attribute Taric codes, update the Taric – art. 6

3) Commission to apply and amend combined nomenclature, Taric, Annex, following procedure art. 10 – art. 9.1

4) Commission may fix conditions on the eligibility of goods for a favourable tariff arrangement, following procedure art. 10 – art. 11.1

Not included: Commission to adopt each year by means of a Regulation a complete version of the combined nomenclature (this provision does not delegate further powers – they have been delegated in the other articles -, it sets out how the nomenclature should be publicised) – art. 12; Commission to amend community acts which include the tariff or statistical nomenclature (this is not delegation of powers, the Commission has to replace codes and description of goods of one nomenclature into another)– art. 15.1

**Number of constraints to Commission** Cc = 2

1) Rules-making requirements: combined nomenclature to use for the Taric and how to set the Taric – Annex I, art.

2; Rules on subheadings – art. 3; list of what measures shall not amend – art. 9.2

2) Executive Action Required 3: measures to be adopted following the management committee procedure IIb of art. 10 (Committee on Tariff and Statistical Nomenclature) - art. 9.1, 11.1

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**Number** 387R3975

**Title**

**Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector**

**Description: Competition rules extended to air transport**

**Major provisions** M = 57

**Provisions delegating authority** D = 21

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 2

1) M/S authorities to retain the power to decide whether cases falls within Treaty art. 85.1 or 86 – art. 7

2) M/S to take the necessary measures to assist the Commission – art. 11.6

Note: Article 7 asserts that national authorities remain competent to apply Treaty art. 81.5 and 86, it extends the powers of national authorities that they would have otherwise relinquished as a result of applying article 7.

Not included: M/S authorities to exercise their powers upon Commission's request – art. 10.1 (this is an obligation and it does not delegate power beyond Treaty art. 88)

**Number of constraints to M/S** Cg = 2

1) Consultation: M/S to consult the Commission before taking the necessary measures to assist it – art. 11.6

2) Time Limit: M/S authorities to retain the power to decide whether cases falls within Treaty art. 85.1 or 86 until Commission action – art. 7

**Provisions delegating authority to Commission** Dc = 18

1) Commission may certify there are no grounds under Treaty art. 85.1 and 86 for action on its part in respect of an agreement (complaint or own initiative, application by undertakings concerned) – art. 3.2

2) Commission may by decision require the undertakings to end infringement of Treaty art. 85.1 and 86 (complaint or own initiative) – art. 4.1

3) Commission to take a decision rejecting the complaint as unfounded (complaint or own initiative) – art. 4.2

4) Commission to take a decision applying Treaty art. 85.3 (complaint or own initiative) – art. 4.3

5) Commission to issue a decision declaring that the prohibition in Treaty art. 85.1 applies (procedure for Treaty art. 85.3) - art. 5.3

6) Commission to issue a decision applying Treaty art. 85.3 (procedure for Treaty art. 85.3) - art. 5.4

7) Commission may renew decision if the conditions for applying Treaty art. 85.3 remain satisfied – art. 6.2

8) Commission may revoke or amend its decision or prohibit specified acts by the parties – art. 6.3

9) Commission may obtain all necessary information from M/S and undertakings (a supporting power of investigation) – art. 9.1

10) Commission can require information by decision if undertakings do not co-operate – art. 9.5

11) Commission can request M/S authorities to undertake investigations – art. 10.1

12) Commission may undertake all necessary investigations – art. 11.1

13) Commission can use the power of decision to undertake investigations – art. 11.3

14) Commission may by decision impose fines if incorrect or misleading information is supplied – art. 12.1

15) Commission may by decision impose fines when undertakings infringe, breach or not comply – art. 12.2

16) Commission may by decision impose on undertakings periodic penalty payments – art. 13.1

17) Commission may fix the total amount of the periodic penalty payment at a lower figure than that of original decision – art. 13.2

18) Commission's power to adopt implementing provisions (more extensive than a simple call for execution, similar to a power to decide procedures) – art. 19

Note: Article 6.2 does not specify that the Commission may renew decision but it is obvious that it is so.

**Number of constraints to Commission** Cc = 3

1) Rules-making requirements: Decisions are valid for at least six years – art. 6.1; Cases when Commission may revoke or amend its decision or prohibit specified acts by the parties – art. 6.3; Limits on fines and periodic penalties – art. 12, 13; Annex listing agreements where Treaty art. 85.1 does not apply;

2) Hearing of interested parties: Commission must invite all interested third parties and the Member States to submit their comments – art. 5.2, 16; hearing of parties and third persons before taking decision – art. 16

3) Consultation : of the Advisory committee – art. 8.3, 12.3, 13.3; consultation with the competent authority of the M/S – art. 11.4

Not included: Exemption: Regulation applies only to international air transport between Community airports (an exemption is not specified, only the scope is) – art. 1.2; References to ECJ review do not go beyond the Treaty – art. 7, 9.5, 11.3, 14; report in art. 8.6 is part of the consultation proceedings

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**Number** 387R3976

**Title**

**Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector**

**Description: Commission can exempt R&D and specialisation agreements and practices in the air transport sector from application of Treaty art. 85.3**

**Major provisions** M = 13

**Provisions delegating authority** D = 3

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 0

**Number of constraints to M/S** Cg = 0

**Provisions delegating authority to Commission** Dc = 3

- 1) Commission may, by regulation, exempt certain agreements from Treaty art. 85.1 – art. 1.1
- 2) Commission may adopt a decision to prohibit or require acts or grant individual exemption or withdraw exemption benefits to end breach of conditions or obligations – art. 7.1
- 3) Commission may withdraw the exemption benefits if agreements are incompatible Treat art. 85.3 – art. 7.2

Note: article 2.2 clarifies the types of agreements the Commission can exempt, it does not delegate further powers

**Number of constraints to Commission** Cc = 4

- 1) Rule-making requirements – Types of agreement and practices that can be exempted and criteria – art. 1.2, 1.3
- 2) Time Limit: Any regulation adopted by the Commission pursuant to art. 2 shall expire on 31/1/1991 – art. 3
- 3) Public hearings of interested parties – Persons to submit comments before the adoption of a regulation – art. 5
- 4) Consultation: of the Advisory Committee on Agreements and Dominant Positions in Air Transport – art. 6

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**Number** 388L0361

**Title**

**Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty**

**Description: Liberalisation of movement of some types of capital**

**Major provisions** M = 20

**Provisions delegating authority** D = 5

**Number of constraints** C = 7

**Provisions delegating authority to M/S** Dg = 5

- 1) M/S may take protective measures in case of serious disturbances – art. 3.1
- 2) M/S may take the protective measures on grounds of urgency – art. 3.2
- 3) Spain, Portugal, Greece and Ireland may continue to apply restrictions to the capital movements in Annex IV – art. 6.2
- 4) Belgium and Luxembourg may continue to operate the dual exchange market – art. 6.3
- 5) M/S to endeavour to attain the same degree of liberalization with third country capital movements – art. 7.1

Note: Article 6.2 extends the possibility of applying restrictions that would otherwise been relinquished as a result of applying art. 1; the same applies for Belgium and Luxembourg in art. 6.3

Not included: M/S to abolish restrictions (obligation) – art. 1.1; Article 4 asserts that M/S can take all requisite measures to prevent infringements, this is a ‘no prejudice provision’, these powers would not have been relinquished as a result of the adoption of this Directive; General call – art. 6.1;

**Number of constraints to M/S** Cg = 4

- 1) Executive action required 1: Commission has to authorize protective measures – art. 3.1
- 2) Executive Action Possible: Commission can decide whether the M/S concerned may continue to apply urgent measures or whether it should amend or abolish them – art. 3.2
- 3) Time limit: The period of application of protective measures shall not exceed six months – art. 3.4; Time limits for Portugal and Spain in Annex IV; Time limits for Belgium and Luxembourg to operate the dual exchange market under laid down in Annex V;
- 4) Rules-making-requirements: M/S may take protective measures for movements of Annex II – art. 3.1; Conditions for Spain and Portugal to continue to apply restrictions to the capital movements are listed in Annex IV; Conditions for Belgium and Luxembourg to continue to operate the dual exchange market are laid down in Annex V;

**Provisions delegating authority to Commission** Dc = 2

- 1) Commission may authorize and specify details and conditions of protective measures – art. 3.1
- 2) Commission to decide whether the M/S concerned may continue to apply urgent measures or whether it should amend or abolish them – art. 3.2

**Number of constraints to Commission** Cc = 3

- 1) Consultation: Before authorizing and deciding on protective measure, consultation of the Monetary Committee and the Committee of Governors of the Central Banks – art. 3.1, 3.2, 3.5
- 2) Legislative action possible: Council may revoke or amend by a qualified majority the Commission’s decisions – art. 3.2
- 3) Reporting requirements: Commission to produce a report on the provisions of art. 3 – art. 3.5

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**Number** 388L0378

**Title**

**Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys**

**Description: Safety of toys**

**Major provisions**

**M = 39**

**Provisions delegating authority**

**D = 12**

**Number of constraints**

**C = 6**

**Provisions delegating authority to M/S**

**Dg = 10**

- 1) M/S to take steps necessary to ensure that toys cannot be placed on the market unless they meet the essential safety requirements – art. 3
- 2) M/S to take all appropriate measures to withdraw or prohibit or restrict the placing on the market of unsafe products with EC mark – art. 7.1
- 3) M/S to take appropriate measures against toys not complying with EC mark requirements – art. 7.3
- 4) M/S to take appropriate measures to ensure that obligations of art. 8.1b and 8.2b are observed – art. 8.3
- 5) M/S may require the manufacturer to have a test performed at his own expense within a specified period by an approved body – art. 8.3 second paragraph (New Major Provision)
- 6) M/S to appoint approved bodies for EC type-examination – art. 9.1
- 7) M/S to withdraw approval if a body no longer meets criteria - art. 9.3
- 8) M/S approved body to carry out the EC type-examination – art. 10.3
- 9) M/S may require warnings and precautions be given in their own national language or languages – art. 11.5
- 10) M/S to take the necessary measures to ensure that sample checks are carried out – art. 12.1

Note: article 9.1 does not clearly specify M/S to appoint bodies, this is however clearly specified in the preambles.

Not included: M/S to presume compliance in respect of toys bearing the EC mark or after receipt of an EEC type-examination (obligation) – art. 5.1, 5.2; M/S approved body to draw up a EC type- examination certificate – art. 10.4; M/S to ensure confidentiality – art. 12.3; general call – art. 15

**Number of constraints to M/S**

**Cg = 4**

- 1) Rule-making requirements: Essential safety requirements of toys in Annex II – art. 3; Minimum criteria for appointing approved bodies listed in Annex III – art. 9.1;
- 2) Executive Action Possible: If a M/S withdraws, prohibits or restricts the marketing of a product on the basis of a shortcoming of the standards (art. 7.1c), article 6 procedure starts and the Commission might not withdraw the harmonized standards, this implies that M/S has to allow the product in the market again, as from art. 4 - art. 7.2
- 3) Reporting requirements: Every three years, M/S to send the Commission a report on the application of this Directive – art. 12.2
- 4) Appeals procedures: In case of decisions on restrictions on the placing of the toy on the market, M/S body must state exact grounds; parties be notified at the earliest opportunity and informed of the remedies – art. 14

**Provisions delegating authority to Commission**

**Dc = 2**

- 1) Commission to withdraw harmonized standards if do not satisfy essential requirements – art. 6.1
  - 2) Commission may ensure that inspection procedures are implemented correctly, without discrimination – art. 13
- Note: article 6.1 requires the Commission to withdraw from publications inappropriate standards, this is an important power as it might put some products off the market.

Not included: Commission to update approved bodies – art. 9.2; Commission to ensure confidentiality – art. 12.3

**Number of constraints to Commission**

**Cc = 3**

- 1) Rule-making requirements: Essential safety requirements of toys in Annex II – art. 3;
- 2) Exemption: of the toys listed in Annex I – art. 1.2
- 3) Consultation: of Standing Committee set up under Directive 83/189 before withdrawing standards– art. 6; of parties and M/S – art. 7;

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**Number** 389L0048

**Title**

**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**

**Description: General system for the recognition of higher-education diplomas**

**Major provisions** M = 30

**Provisions delegating authority** D = 14

**Number of constraints** C = 4

**Provisions delegating authority to M/S** Dg = 12

- 1) Host M/S authority to lay down rules governing the adaptation period and status of migrant person – art. 1f
- 2) Competent M/S authorities to draw up a list of subjects not covered by the applicant's diploma – art. 1g (New Major Provision)
- 3) M/S competent authorities to determine the detailed application of the aptitude test – art. 1g second paragraph (New Major Provision)
- 4) Host M/S authorities to determine the status of the applicant preparing for the aptitude test – art. 1g last paragraph (New Major Provision)
- 5) Host M/S may require the applicant to provide evidence of professional experience – art. 4.1a
- 6) Host M/S may require the applicant to complete an adaptation period or take an aptitude test – art. 4.1b (New Major Provision)
- 7) Host M/S may allow the applicant to undergo there that part of his professional education and training – art. 5
- 8) Host M/S competent authorities may require documents and certificates are presented no more than three months after their date of issue – art. 6.3
- 9) Host M/S may require title to be followed by name and location – art. 7.2
- 10) M/S to designate competent authorities empowered to receive the applications and take the decisions – art. 9.1
- 11) M/S to designate a person responsible for coordinating the activities of the authorities – art. 9.2
- 12) M/S may propose not to grant applicants the right to choose between an adaptation period and an aptitude test in respect of a profession – art. 10.1

Note: The fact that coordinators are in charge of coordinating activities within the M/S makes this a M/S delegation provision; the establishment of a committee in Brussels is instead a provision delegating powers at the EU level, but not to the Commission.

Not included: M/S may not refuse authorisation to another M/S national – art. 3; Issuance of documents and certificates – art. 1, 6, 8; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 6.4; Competent M/S authorities to recognize the right use the professional title (obligation) – art. 7.1; M/S to take necessary measures to enable information diffusion – art. 9.3; General call – art. 12

**Number of constraints to M/S** Cg = 3

- 1) Rule-making requirements: Definition of diploma, professional activity, adaptation period – art. 1; Rules on the aptitude test – art. 1g; Rules on the period of professional experience, adaptation period or aptitude test – art. 4.1
- 2) Executive Action Possible: Commission may, within three months, decide against a M/S proposal not to grant applicants the right to choose between an adaptation period and an aptitude test in respect of a profession, M/S measure cannot be enacted during the three months – art. 10.1
- 3) Reporting requirements: M/S to communicate to the Commission, every two years, a report – art. 11

**Provisions delegating authority to Commission** Dc = 1

- 1) Commission may decide against a M/S proposal not to grant applicants the right to choose between an adaptation period and an aptitude test in respect of a profession – art. 10.2

Not included: Commission to take the necessary initiatives to ensure the development and coordination of the communication of the necessary information – art. 9.3

**Number of constraints to Commission** Cc = 3

- 1) Rule-making requirements: Rules on the aptitude test – art. 1g; Rules on the period of professional experience, adaptation period or aptitude test – art. 4.1
- 2) Reporting requirements: Commission to report to the European Parliament and the Council on the state of application of the general system – art. 13
- 3) Exemption: of professions which are the subject of a separate Directive – art. 2;

Not included: Commission may consult the coordinating group (not compulsory) – art. 10.1

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**Number** 389L0104

**Title**

**First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks**

**Description: Approximation of trade marks laws**

**Major provisions**

**M = 44**

**Provisions delegating authority**

**D = 12**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 12**

- 1) M/S may provide that a trade mark shall not be registered or shall be liable to be declared invalid – art. 3.2
- 2) M/S may provide that trade mark shall not be refused registration or be declared invalid if a distinctive character was acquired after the date of application for registration – art. 3.3
- 3) M/S may provide that the grounds of refusal of registration or invalidity shall apply to trade marks for which application has been made prior to the date of application of this Directive – art. 3.4
- 4) M/S may provide that a trade mark shall not be registered or shall be liable to be declared invalid (conflict with earlier rights) – art. 4.4
- 5) M/S may permit that registration need not be refused or the trade mark declared invalid where the proprietor of the earlier trade mark consents to the registration – art. 4.5
- 6) M/S may provide that the grounds of refusal of registration or invalidity shall apply to trade marks for which application has been made prior to the date of application of this Directive (conflict with earlier rights) – art. 4.6
- 7) M/S may provide that the proprietor shall be entitled to prevent third parties from using any sign which similar to their trade mark in relation to goods which are not similar – art. 5.2
- 8) M/S may provide that limitation in consequence of acquiescence shall apply to the proprietor of an earlier trade mark – art. 9.2
- 9) M/S may provide that registration of a trade mark may not be refused on the ground that there is an earlier conflicting trade mark if the latter does not fulfil the requirements of use – art. 11.2
- 10) M/S may provide that a trade mark may not be successfully invoked in infringement proceedings if it is established as a result of a plea that the trade mark could be revoked – art. 11.3
- 11) M/S may provide that collective marks shall not be registered or be revoked or declared invalid on additional grounds – art. 15.1
- 12) M/S may provide that signs designating geographical origin may constitute collective marks – art. 15.2

Not included: Article 5.5 asserts that M/S provisions on the protection against the use of a sign other than for the purposes of distinguishing goods or services are unaffected, this is a 'no prejudice provision', powers have not otherwise been relinquished; General call on implementation – art. 16

**Number of constraints to M/S**

**Cg = 1**

- 1) Rules-making requirements: Ground for refusal of trade marks – art. 3, 4; Five year period of acquiescence – art. 9.1; Requirements of use – art. 10

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 389L0299

**Title**

**Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions**

**Description: Own funds of credit institutions**

**Major provisions**

**M = 25**

**Provisions delegating authority**

**D = 8**

**Number of constraints**

**C = 2**

**Provisions delegating authority to M/S**

**Dg = 8**

- 1) M/S may permit inclusion of interim profits – art. 2.1 (2)
- 2) M/S supervisory authority may waive the provision to include temporary holdings in other credit institutions – art. 2.1 (12) (New Major Provision)
- 3) M/S may provide that parent companies subject to supervision on a consolidated basis need not deduct their holdings in other institutions included in the consolidation – art. 2.1 last paragraph (New Major Provision)
- 4) M/S to decide use of items and fixing of lower ceilings and deduction of items – art. 2.2
- 5) M/S may include other items in the concept of own funds – art. 3.1
- 6) M/S may include fixed-term cumulative preferential shares in own funds – art. 4.3
- 7) M/S competent authorities may grant permission for the early repayment of loans to be included – art. 4.3b (New Major Provision)
- 8) M/S competent authorities may authorize credit institutions to exceed the implementation time limit – art. 6.4

Not included: general call – art. 9

**Number of constraints to M/S**

**Cg = 2**

1) Rules-making requirements: Definition of the term or concept of own funds and list of items to be included – art. 2; Rules governing the inclusion of new items – art. 3, 4; deduction and percentage limits for the inclusion of some items – art. 6; Authorization by competent authorities to exceed the implementation time limit should be temporary and exceptional – art. 6.4

2) Reporting Requirements: Although not clearly stated, this is similar to a reporting requirements: The communication of the texts of national laws by the M/S should include a statement accompanied by an *explanatory text* notifying the specific provisions adopted and the items selected as comprising own funds – art. 9.3

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Commission to submit a report – art. 2.2 (no delegation)

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**Number** 389L0391

**Title**

**Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work**

**Description: Safety and health of workers at work**

**Major provisions**

**M = 63**

**Provisions delegating authority**

**D = 9**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 7**

- 1) M/S to take necessary steps to ensure that employers, workers and workers' representatives are subject to the legal provisions implementing the Directive – art. 4.1
- 2) M/S to ensure adequate controls and supervision – art. 4.2
- 3) M/S need not exercise the option of providing for the exclusion or the limitation of employers' responsibility in unusual and unforeseeable circumstances – art. 5.4
- 4) M/S may define the categories of undertakings in which the employer may take responsibility, instead of designating workers – art. 7.7
- 5) M/S to define the capabilities and aptitudes of the designated workers – art. 7.8
- 6) M/S may determine the sufficient number of designated workers – art. 7.8 second paragraph (New Major Provision)
- 7) M/S to define the obligations to be met by undertakings in drawing-up and preparing documents – art. 9.2

Not included: article 1.3 asserts that the directive is without prejudice to existing or future provisions that are more favourable to protection of the safety and health of workers. This is a 'no prejudice provision', the prerogative to adopt more favourable provisions would have not otherwise been relinquished as a result of this Directive; General call – art. 18

**Number of constraints to M/S**

**Cg = 2**

- 1) Rule-making requirements: List of employers' obligations that M/S have to control and supervise (general principles of prevention) – art. 6.2, 6.3, 7, 8, 9; List of occupational accidents resulting in a work being unfit for three days – art. 9.1 (these are obligations on employers but they also impose minimum requirements on the M/S)
- 2) Reporting Requirements: M/S to report to the Commission every five years - art. 18.3

**Provisions delegating authority to Commission**

**Dc = 1**

- 1) Commission to adopt decision to take account of new directives, technical progress and new findings, following procedure art. 17 – art. 17.3

**Number of constraints to Commission**

**Cc = 4**

- 1) Rule-making requirements: List of employers' obligations that M/S have to control and supervise (general principles of prevention) – art. 6.2, 6.3, 7, 8, 9; List of occupational accidents resulting in a work being unfit for three days – art. 9.1 (these are obligations on employers but they also constrain the role of the Commission in amending directives); Commission adjustments must be purely technical – art. 17.1
- 2) Executive Action Required 2: decisions to be adopted following the regulatory committee procedure IIIa of art. 17 - art. 17.3
- 3) Reporting Requirements: Commission to submit periodically a report on the implementation – art. 18.4
- 4) Exemption of some professions, e.g. armed forces and police – art. 2.2

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**Number** 389L0440

**Title**

**Council Directive 89/440/EEC of 18 July 1989 amending Directive 71/305/EEC concerning coordination of procedures for the award of public works contracts**

**Description: Public works contracts procedure**

**Major provisions**

**M = 91**

**Provisions delegating authority**

**D = 22**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 21**

- 1) M/S to take the measures to ensure that the contracting authorities comply or ensure compliance – art. 1.2 (1a.1)
- 2) M/S contracting authority may either require the concessionaire to award part of the contracts to third parties or request candidates to specify the percentage of the work assigned to third parties – art. 1.2 (1b.2)
- 3) M/S to ensure that a concessionaire shall apply the advertising rules – art. 1.2 (1b.4)
- 4) M/S contracting authorities may depart from the provision for lots – art. 1.4 (4a.3)
- 5) M/S contracting authorities may award their public works contracts by negotiated procedure with prior publication – art. 1.7 (5.2)
- 6) M/S contracting authorities may award their public works contracts by negotiated procedure without prior publication – art. 1.7 (5.3)
- 7) M/S contracting authority may depart from rules on technical specifications – art. 1.10 (10.3a)
- 8) M/S authorities may define technical specifications by reference to national standards or other documents if there is no European standard – art. 1.10 (10.5)
- 9) M/S contracting authorities may reduce time limit for the receipt of tenders (open procedure) – art. 1.12 (13.2)
- 10) M/S contracting authorities may reduce time limit for the receipt of tenders (restricted procedure) – art. 1.12 (14.4)
- 11) M/S national authorities may apply shorter time limits in cases of urgency – art. 1.12 (15.1)
- 12) M/S authorities may arrange for the publication of notices for other public works contracts – art. 1.15 (19)
- 13) M/S contracting authorities may take account of variants – art. 1.16 (20a)
- 14) M/S contracting authority may ask tenderer to indicate share of the contract subcontracted to third parties – art. 1.16 (20b)
- 15) M/S authorities to select candidate to invite for tender in the restricted and negotiated procedures – art. 1.17 (22.1)
- 16) M/S contracting authorities may prescribe the range within which the number of undertakings to invite will fall (restricted procedure) – art. 1.17 (22.2)
- 17) M/S to ensure that authorities issue invitations under the same conditions to nationals – art. 1.17 (22.4)
- 18) M/S may oblige contracting authorities to state in the contract documents the authority from which a tenderer may obtain the appropriate information on employment protection – art. 1.18 (22a.1)
- 19) M/S authorities may request to prove enrolment in the professional or trade register – art. 1.19 (24)
- 20) M/S authorities may reject, after examination, tenders that it considers to be abnormally low – art. 1.20 (29.5)
- 21) Contracting authority do not need to comply with the low-priced contract procedure – art. 1.20 (29.5 last paragraph) (New Major Provision)

Note: Powers under articles 1.18 (22a.1), 1.19 (24) are power to request information, they are considered as complementary to the power to select candidate and award contracts; Art. 1.10 (10.5) on technical specification does not specify competent authorities, however it is obvious from the text (same for time limits provisions art. 1.12 (13.2, 14.4)).

Not included: Article 1.21 (29a.1) asserts that the directive shall not prevent M/S to apply national provisions which have as their objective the reduction of regional disparities and the promotion of job creation in poor regions, though it is not very clear, these prerogatives are unlikely to have otherwise been relinquished as a result of applying this Directive (even if there is time limit)

Not included: M/S contracting authorities shall award their public works contracts by the open procedure or by the restricted procedure (obligation) – art. 1.7 (5.4); Contracting authorities to make known the essential characteristics of the works contracts (obligation) – art. 1.12 (12.1); M/S may not publish certain information on contract award – art. 1.12 (12.5); Contracting authorities to fix time limit at not less than 52 days from the date of sending the notice (no delegation - rule requirement constraint) – art. 1.12 (13.1, 14.1); Contracts shall be awarded on the basis of criteria (already repeated in art. 1.7 (5.2-5.3)) – art. 1.15 (20); Authorities to request tenders that they have taken into account employment protection provisions (obligation) – art. 1.18 (22a.2); General call – art. 3

**Number of constraints to M/S****Cg = 3**

1) Rule-making requirements: Need to comply if a contracting authority subsidized more than 50% of a contract – art. 1.2 (1a); Procedure apply to that contract when its value is not less than ECU 5 000 000 (it can be seen as an exemption for contract below that value, but for M/S it is better to be seen as constraint on their rules for awarding contracts) – art. 1.2 (1b.1, 1b.4), 1.4 (4a.1); M/S contracting authorities may depart from the provision for lots if estimated value net of VAT is less than ECU 1m and that the total estimated value of all the lots exempted does not exceed 20 % of the total estimated value of all lots – art. 1.6 (4a.3); Rules for the negotiating procedure – art. 1.7 (5.2, 5.3); Technical specifications to be given in the general or contractual documents – Annex III; Conditions for departure from technical specifications – art. 1.10 (10.3a, 10.5); Common advertising rules e.g. length of notice of 650 words – art. 1.12 (12-15); Dates of sending notice, 52-37 days – art. 1.12 (13.1, 14.1); Range between 5 and 20 within which the number of undertakings to invite will fall – art. 1.17 (22.2); Procedure for rejecting low-priced contracts - art. 1.20 (29.5)

2) Reporting requirements: Contracting authorities shall draw up a written report for each contract awarded – art. 1.8 (5a.3); M/S to forward to the Commission, every year, a report on implementation of provisions – art. 1.21 (29b.2); M/S to forward to the Commission a statistical report on the contracts awarded by contracting authorities every second year – art. 1.22 (30a.1)

3) Time limit: Contracting authority do not need to comply with the low-priced contract procedure until the end of 1992 – art. 1.20 (29.5)

Not included: Exemption: in art. 1.4 (3.4, 4); Contracting authority must communicate to the Commission the rejection of tenders which it considers to be too low (no report or justification as in the previous directives) – art. 1.20 (29.5)

**Provisions delegating authority to Commission****Dc = 1**

1) Commission to amend Annex I – art. 1.22 (30b.1)

Not included: Commission to determine the nature of any additional statistical information to be included in M/S statistical report – art. 1.22 (30a.3)

**Number of constraints to Commission****Cc = 1**

1) Consultation: Amendments to Annex I shall be made by the Commission after consulting the Advisory Committee for Public Works Contracts – art. 1.22 (30b.2)

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**Number** 389L0646

**Title**

**Second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive 77/780/EEC**

**Description: Coordination of the laws relating to the business of credit institutions**

**Major provisions** M = 88

**Provisions delegating authority** D = 36

**Number of constraints** C = 9

**Provisions delegating authority to M/S** Dg = 32

- 1) M/S may exempt some credit institutions from some requirements – art. 2.3
- 2) M/S may grant authorization to particular categories of credit institutions with lower capital – art. 4.2
- 3) M/S competent authorities to refuse authorization if not satisfied as to the suitability of shareholders – art. 5
- 4) M/S may decide that credit institutions in existence with lower own funds may continue to carry on their activities – art. 10.2
- 5) M/S authorities to give consent that own funds of the institution resulting from the merger may not fall below the total own funds of the merged institutions if art. 4 level has not been attained – art. 10.4
- 6) M/S authorities may allow an institution a limited period in which to rectify a reduction of own funds – art. 10.5
- 7) M/S authority may oppose a plan of acquiring holdings to ensure sound and prudent management – art. 11.1
- 8) M/S competent authorities may fix a maximum period for its implementation to acquire holdings – art. 11.1 last sentence (new Major Provision)
- 9) M/S to require that the competent authorities take appropriate measures against the influence of persons that is to the detriment of the prudent and sound management or if persons do not provide prior information – art. 11.5
- 10) M/S to provide suspension or annulment of voting rights if a holding is acquired despite its opposition – art. 11.5 last sentence (New Major Provision)
- 11) M/S need not apply the limits to holdings in insurance companies – art. 12.3
- 12) M/S competent authorities to require a credit institution either to increase its own funds or to take other equivalent measures of time limits are exceeded – art. 12.5
- 13) M/S may provide that the competent authorities shall not apply the limits in some cases – art. 12.8
- 14) Home M/S competent authorities to carry out prudential supervision of a credit institution – art. 13.1
- 15) Home M/S authorities to require credit institutions to have sound administrative and accounting procedures and adequate internal control mechanisms – art. 13.2
- 16) M/S competent authorities to collaborate to ensure that the institutions concerned take steps to cover market risks – art. 14.3
- 17) Host M/S to provide that home M/S authorities may carry out on-the-spot verification of information – art. 15.1
- 18) Home M/S authorities may have recourse to procedures of art. 5.4 of Directive 83/350 for verification of branches – art. 15.2
- 19) M/S authorities may use information in some cases, e.g. in support of sanctions – art. 16 (12.4)
- 20) M/S may authorize disclosure to other departments and to inspectors or provide for express consent by authorities for disclosure of certain information – art. 16 (12.7)
- 21) M/S to provide that competent authorities may impose penalties aimed at ending breaches of supervision laws by credit institutions – art. 17
- 22) Home M/S competent authorities to verify compliance with conditions for establishment and provision of services – art. 18.2
- 23) Home M/S authorities to ensure the supervision of the subsidiary – art. 18.2 third paragraph (New Major Provision)
- 24) Home M/S competent authority may refuse to communicate the information to the competent authorities of the host M/S – art. 19.3
- 25) Host M/S competent authorities (to prepare for the supervision of the credit institution and) to indicate the conditions under which credit activities must be carried on – art. 19.4
- 26) Host M/S may require that branches of credit institutions from other M/S to provide information as they require from national credit institutions, to carry out activities of art. 14.2-3 – art. 21.1
- 27) Host M/S authorities to require non-complying institutions to put an end to the irregular situation – art. 21.2
- 28) Home M/S authorities to take measures against non-complying institutions – art. 21.3
- 29) Host M/S may take appropriate measures to prevent or to punish further irregularities – art. 21.4
- 30) M/S to ensure that within their territories it is possible to serve the legal documents necessary for measures on credit institutions – art. 21.4 last sentence (New Major provision)
- 31) Host M/S authorities may, in emergencies, take any precautionary measures – art. 21.7
- 32) Host M/S to take appropriate measures to prevent the institution concerned from initiating further transactions in the event of the withdrawal of authorization – art. 21.9

Note: article 2.3 is written as 'credit institutions may be exempted', obviously this is a M/S decision; art. 16 (12.4) is not simply about information exchange, it is a supporting power for others activities (e.g. the imposition of

sanctions); article 19.3 refusal to communicate information is an important power as it impedes the establishment of branches, see art. 19.5; the collection of information under art. 21.1 is a supporting power to cover market risks and for other policies;

Not included: Article 14.2 asserts that host M/S retain responsibility for supervision of the liquidity of the branches of credit institutions and for the measures implementing their monetary policies, these are 'no prejudice provisions', powers would have not otherwise been relinquished. The same applies for article 15.3 asserting that host M/S powers to carry out on-the-spot verifications of branches are unaffected and for article 21.5 asserting that M/S power to take measures to punish irregularities is unaffected.

Not included: M/S to prohibit persons that are not credit institutions from carrying on the business of taking deposits or other repayable funds from the public (obligation) – art. 3; M/S to require any person who proposes to acquire or dispose of holding to inform the competent authorities (obligation – information only) – art. 11.1, 11.3; M/S to provide that all persons working or who have worked for the competent authorities shall be bound by the obligation of professional secrecy – art. 16 (12.1); M/S may conclude cooperation agreements with third countries providing for exchanges of information – art. 16 (12.3); M/S authorities may exchange information – art. 16 (12.5, 12.6); M/S to provide that the activities listed in the Annex may be carried on within their territories (obligation) – art. 18.1, 18.2; M/S to require credit institutions wishing to establish a branch to provide information – art. 19.2; Host M/S may, for statistical purposes, require that all credit institutions having branches within their territories shall report periodically on their activities – art. 21.1; Host M/S may take appropriate measures to prevent or to punish further irregularities of art. 21.4 is repeated in art. 21.8; General call – art. 24.2

#### **Number of constraints to M/S**

**Cg = 5**

- 1) Consultation: Prior consultation with the competent authorities of the other M/S involved on the authorization of some credit institutions – art. 7, 11.2
- 2) Rule-making requirements: No granting of authorization where initial capital is less than ECU 5 million and other rules – art. 4.1, 5; Cases where granting authorization is possible – art. 4.2; Cases where not applying time limits – art. 12.8; Rules on the use of information (no delegation) – art. 16 (12.4)
- 3) Appeals procedure: Refusal to send information or failure to reply shall be subject to a right to apply to the courts in the home M/S – art. 19.3; Measure under art. 21.3-5 shall be subject to a right of appeal to the courts in the Member State the authorities of which adopted it – art. 21.6;
- 4) Executive Action Possible: Commission may decide that the M/S must amend or abolish precautionary measures – art. 21.7
- 5) Reporting requirements: M/S to inform the Commission of the number and type of cases in which there has been a refusal pursuant to art. 19 or in which measures have been taken in accordance with art. 21.4. Every two years the Commission submit a report on such cases to the Banking Advisory Committee – art. 21.10 (even though Commission draw up or submit the report, this is more like M/S reporting on their activities)

#### **Provisions delegating authority to Commission**

**Dc = 5**

- 1) Commission may negotiate with third countries to gain effective market access to Community credit institutions – art. 9.3
- 2) Commission may negotiate with third countries in order to remedy discriminate treatment against Community credit institutions – art. 9.4
- 3) Commission may decide that the M/S authorities must suspend decisions on requests for authorizations and on acquisition of holdings, following procedure of art. 22.2 – art. 9.4 second paragraph (New Major Provision)
- 4) Commission may decide that the M/S must amend or abolish precautionary measures – art. 21.7
- 5) Commission to adopt technical adaptations to the Directive, following procedure art. 22.2 – art. 22.1

#### **Number of constraints to Commission**

**Cc = 7**

- 1) Legislative action required: Council must decide, by qualified majority, on a mandate for negotiation to gain effective market access – art. 9.3
- 2) Reporting requirements: Commission to draw up a report on the application of art. 4.2 – art. 4.2d; Commission shall submit a report on cases of withdrawal of authorization to the Banking Advisory Committee every two years – art. 21.9; Commission to draw up a report examining the treatment accorded to Community credit institutions in third countries – art. 9.2
- 3) Executive Action Required 1: decisions to be adopted following the regulatory committee procedure IIIb of art. 22.2 (committee) - art. 9.4 second paragraph, 22.1
- 4) Time Limit: The duration of the measures of art. 9.4 may not exceed three months – art. 9.4
- 5) Exemption: Exemption of institutions referred to in Article 2.2 of Directive 77/780 – art. 2.2; limitations or suspension may not apply to the setting up of subsidiaries by credit institutions duly authorized or to the acquisition of holdings in Community credit institutions by such institutions – art. 9.4
- 6) Consultation: Commission may decide that the M/S must amend or abolish precautionary measures after consulting M/S competent authorities – art. 21.7
- 7) Rule-making requirements: Rules on initial capital – art. 4

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**Number** 389L0665

**Title**

**Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts**

**Description: Coordination of laws on application of review procedures to the award of public supply and works contracts**

**Major provisions**

**M = 20**

**Provisions delegating authority**

**D = 8**

**Number of constraints**

**C = 3**

**Provisions delegating authority to M/S**

**Dg = 7**

- 1) M/S to ensure that there is no discrimination between undertakings claiming injury – art. 1.2
- 2) M/S to ensure that the review procedures are available, under detailed rules they may establish, at least to any person having an interest in obtaining a public contract and risks being harmed – art. 1.3
- 3) M/S to ensure that the measures taken on the review procedures include provision for some powers – art. 2.1
- 4) M/S may confer powers on separate bodies responsible for different aspects of the review procedure – art. 2.2
- 5) M/S may provide that body responsible to order interim measures to take into account the consequences for all interests likely to be harmed – art. 2.4
- 6) M/S may provide that, where damages are claimed, the contested decision must first be set aside – art. 2.5
- 7) M/S may provide that the powers of the body responsible for the review procedures shall be limited to awarding damages – art. 2.6

Note: Article 1.2 asks M/S to ensure no discrimination, this can be considered delegation of powers; Article 2.2 does not specify who is charge of the conferral of power, but it is obvious that M/S are.

Not included: M/S to take the measures necessary to ensure that decisions taken by the contracting authorities may be reviewed effectively and rapidly – art. 1.1 and M/S to ensure that decisions taken by bodies responsible for review procedures can be effectively enforced – art. 2.7 (these provisions, rather than delegation of powers, are more constraint on the powers of contracting authorities); General call – art. 5

**Number of constraints to M/S**

**Cg = 3**

- 1) Appeals procedure: Detailed rules on the appeals procedure (powers, bodies, decision, interested parties, review of decisions of bodies) – art. 1, 2; Reference to art. 177 – art. 2.8; Decision-making procedures of independent bodies – art. 2.8; Commission has a standing – art. 3
- 2) Rule-making requirements: Detailed list of the powers to include in the review procedures – art. 2.1; Detailed rules on the members of independent bodies – art. 2.8
- 3) Reporting requirements: By 1 March each year M/S to communicate to the Commission information on the operation of their national review procedures during the preceding year (this is similar to a report) – art. 4.2

**Provisions delegating authority to Commission**

**Dc = 1**

- 1) Commission to request the correction of clear and manifest infringements – art. 3.2

Not included: Commission to determine the nature of the information to received from M/S – art. 4.2

**Number of constraints to Commission**

**Cc = 0**

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**Number** 389R4064

**Title**

**Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings**

**Description: Control of concentrations between undertakings**

**Major provisions**

**M = 103**

**Provisions delegating authority**

**D = 28**

**Number of constraints**

**C = 8**

**Provisions delegating authority to M/S**

**Dg = 4**

1) M/S to take measures in applying article 9 – 9.8

2) Competent M/S authorities to exercise their powers – art. 12.1 second part (New Major Provision)

3) M/S to take the necessary measures to assist the Commission – art. 13.6

4) M/S may take appropriate measures to protect legitimate interests – art. 21.3

Note: Differently from regulations applying Treaty articles 85 and 86, the provision of art. 12.1 requiring M/S authorities to exercise their powers upon Commission's request delegates powers beyond Treaty art. 88.

Not included: M/S may inform the Commission of a concentration – art. 9.2

**Number of constraints to M/S**

**Cg = 3**

1) Rule making-requirements: In applying art. 9, M/S may take only the measures strictly necessary to safeguard or restore effective competition on the market concerned – art. 9.8

2) Consultation: M/S to consult the Commission before taking the necessary measures to assist it – art. 13.6

3) Executive action required 1: Commission to decide compatibility with Community law of M/S measures protecting other public interests before M/S measures can be taken – art. 21.3

**Provisions delegating authority to Commission**

**Dc = 24**

1) Commission to decide if concentration fall within Regulation scope or if it is compatible or not (first examination) – art. 6.1

2) Commission may decide to continue the suspension of a concentration or to take interim measures – art. 7.2

3) Commission may grant a derogation from the obligations of art. 7.1-3 (suspension of concentration) – art. 7.4

4) Commission to issue a decision declaring the concentration compatible with the common market (end of proceeding) – art. 8.2

5) Commission to issue a decision declaring that the concentration is incompatible with the common market (end of proceeding) – art. 8.3

6) Commission may require the undertakings to be separated or the cessation of joint control if concentration has been implemented – art. 8.4

7) Commission may revoke the decision declaring the concentration compatible with the common market – art. 8.5

8) Commission may, by decision, refer a notified concentration to the M/S competent authorities – art. 9.1

9) Commission to decide if there is a distinct market or threat and deal with or refer the case to the M/S competent authorities – art. 9.3

10) Commission may obtain all necessary information from governments and authorities (a supporting power of investigation) – art. 11.1

11) Commission may require information by decision if there is no co-operation from undertakings – art. 11.5

12) Commission can request M/S authorities to undertake investigations – art. 12.1

13) Commission may undertake all necessary investigations – art. 13.1

14) Commission can use the power of decision to undertake investigations – art. 13.3

15) Commission may by decision impose fines in case of no notification or if incorrect or misleading information is supplied – art. 14.1

16) Commission may by decision impose fines when undertakings do not comply – art. 14.2

17) Commission may by decision impose on undertakings periodic penalty payments (information and investigation) – art. 15.1

18) Commission may by decision impose on undertakings periodic penalty payments (non compliance or application of measures) – art. 15.2

19) Commission may fix the total amount of the periodic penalty payment at a lower figure than that of original decision – art. 15.3

20) Commission to decide compatibility with Community law of M/S measures protecting public interest – art. 21.3

21) Commission may adopt decisions of art. 8.2-4 also in case of concentrations without Community dimension – art. 22.3

22) Extension of powers under art. 6, 8, 10-20 to concentrations without Community dimension – art. 22.4

23) Commission's power to adopt implementing provisions (more extensive than a simple call for execution, it is a power to decide form, content, details and time limits) – art. 23

24) Commission may negotiate with third countries with a view to obtaining comparable treatment for Community undertakings – art. 24.3

Not included: Commission may extend period within which credit institutions should sell undertakings' securities – art. 3.5a; Commission to publish the fact that a notified concentration falls within the scope of this Regulation (only

publication) – art. 4.3; Commission to notify its decision – art. 6.2; Commission may in exceptional cases shorten period of consultation – art. 19.5; Commission to publish the decisions – art. 20.1

**Number of constraints to Commission**

**Cc = 7**

1) Rule-making requirements: Scope: Concentration with Community dimension has aggregate worldwide turnover of more than ECU 5 000m and Community-wide turnover of each of at least two of the undertakings of more than ECU 250m – art. 1.2; Aspects to take account of in the appraisal of concentrations (need to preserve and develop effective competition, market position of the undertakings, opportunities available to suppliers and users, dominant position) – art. 2; Definition of concentration and control – art. 3; Calculation of turnover – art. 5; Conditions under which Commission may revoke decision – art. 8.5; Definition of geographical reference market – art. 9.7; Limits on fines and periodic penalties – art. 14, 15; Commission to take only the measures strictly necessary to maintain or restore competition within the territory of the M/S at the request of which it intervenes – art. 22.5

2) Exemption: Powers under article 7 have no effect on transactions in securities admitted to trading on a regulated market operating regularly and accessible directly or indirectly to the public – art. 7.5

3) Consultation: Commission to hear the competent authority before taking decisions on investigation – art. 13.4; Consultation of Advisory Committee on concentrations before any decision or provision is taken pursuant to art. 8.2-5, 14, 15 and 23 – art. 19.3

4) Public hearing of interested parties: Before taking any decision, the Commission shall give undertakings the opportunity, at every stage of the procedure, of making known their views on the objections against them - art. 18

5) Time Limit: Commission's powers under art. 22.3-5 shall continue to apply until the thresholds have been reviewed, namely until the end of the fourth year following that of the adoption of the regulation – art. 22.6

6) Reporting requirements: Commission to draw up a report examining the treatment accorded to Community undertakings as regards concentrations in non-member countries – art. 24.2

7) Legislative action required: Council to adopt a mandate for negotiations of Commission with third countries, before Commission starts negotiations – art. 24.3

Not included: References to ECJ review do not go beyond the Treaty art. 173 – art. 9.9 (M/S may appeal, and in particular request the application of Article 186, for the purpose of applying its national competition law), 11.5, 13.3, 16, 21

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**Number** 390L0364

**Title**

**Council Directive 90/364/EEC of 28 June 1990 on the right of residence**

**Description: Right of residence**

**Major provisions** M = 10

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S may require revalidation of the residence permit and set duration of validity – art. 2.1
- 2) Extension of delegated powers under art. 2, 3, 9 of directive 68/360 to this directive – art. 2.2
- 3) M/S can derogate from the provisions in case of public order, security and health – art. 2.2 last paragraph (New Major Provision)

Not included: M/S to grant the right of residence to nationals and to members of their families (obligation) – art. 1.1; General call – art. 5;

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Validity of five year and revalidation at the end of first two years – art. 2.1; rules on derogation of Directive 64/221 – art. 3.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Commission to draw up a report on the application of this Directive – art. 4

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**Number** 390L0365

**Title**

**Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity**

**Description: Right of residence for persons that have ceased their activity**

**Major provisions** M = 10

**Provisions delegating authority** D = 3

**Number of constraints** C = 1

**Provisions delegating authority to M/S** Dg = 3

- 1) M/S may require revalidation of the residence permit and set duration of validity – art. 2.1
- 2) Extension of delegated powers under art. 2, 3, 9 of directive 68/360 to this directive – art. 2.2
- 3) M/S can derogate from the provisions in case of public order, security and health – art. 2.2 last paragraph (New Major Provision)

Not included: M/S to grant the right of residence to M/S nationals who have pursued an activity as an employee or self-employed person and to members of their families (obligation) – art. 1.1; General call – art. 5;

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Validity of five year and revalidation at the end of first two years – art. 2.1; rules on derogation of Directive 64/221 – art. 2.2

**Provisions delegating authority to Commission** Dc = 0

**Number of constraints to Commission** Cc = 0

Not included: Commission to draw up a report on the application of this Directive – art. 4

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**Number** 391L0250

**Title**

**Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs**

**Description: Legal protection of computer programs**

**Major provisions**

**M = 24**

**Provisions delegating authority**

**D = 4**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 4**

- 1) M/S to protect computer programs, by copyright, as literary works – art. 1.1
- 2) M/S to provide appropriate remedies against a person infringing copyright – art. 7.1
- 3) M/S may provide for the seizure of any means – art. 7.3
- 4) M/S may maintain their present term of protection – art. 8.2

Note: Article allows M/S to maintain their term of protection, if longer. This prerogative would have otherwise been relinquished as a result of applying art. 8.1

Not included: M/S to lay down methods of making a reference to the Directive (this refers only to the fact that M/S measures should, in publication, refer to this Directive) – art. 10.1; General call – art. 10.1

**Number of constraints to M/S**

**Cg = 1**

- 1) Rule-making requirements: Detailed definition of exclusive rights of the rightholder (restricted acts and exceptions) – art. 4, 5; Rules on decompilation – art. 6; Term of protection, 50 years – art. 8

Not included: Exemption: Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected by copyright under this Directive – art. 1.2

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

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**Number** 392L0051

**Title**

**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**

**Description: Second general system for the recognition of professional education and training**

**Major provisions**

**M = 44**

**Provisions delegating authority**

**D = 18**

**Number of constraints**

**C = 5**

**Provisions delegating authority to M/S**

**Dg = 16**

- 1) Host M/S authority to lay down rules governing the adaptation period and its assessment – art. 1i
- 2) Competent M/S authorities to draw up a list of subjects not covered by the applicant's education and training – art. 1j (New Major Provision)
- 3) M/S competent authorities to determine the detailed application of the aptitude test – art. 1j second paragraph (New Major Provision)
- 4) Host M/S authorities to determine the status of the applicant preparing for the aptitude test – art. 1j last paragraph (New Major Provision)
- 5) Host M/S may not apply article 3 (i.e. it may prohibit another M/S national taking up a regulated profession on grounds of inadequate qualification) – art. 3.
- 6) Host M/S may require the applicant to provide evidence of professional experience – art. 4.1a
- 7) Host M/S may require the applicant to complete an adaptation period or take an aptitude test (Host M/S requires diploma, ch. III) – art. 4.1b (New Major Provision)
- 8) M/S may propose not to grant applicants right to choose between adaptation period and aptitude test (Host M/S requires diploma, ch. III), following procedure art. 14 – art. 4.1b second paragraph (New Major Provision)
- 9) Host M/S may require the applicant to complete an adaptation period or take an aptitude test (applicant has certificate, ch. IV) – art. 5b
- 10) M/S may propose not to grant applicants right to choose between adaptation period and aptitude test (applicant has certificate, ch. IV), following procedure art. 14 – art. 5 last paragraph (New Major Provision)
- 11) Host M/S may require the applicant to complete an adaptation period or take an aptitude test (Host M/S requires certificate, ch. V) – art. 7
- 12) M/S may propose not to grant applicants right to choose between adaptation period and aptitude test (Host M/S requires certificate, ch. V), following procedure art. 14 – art. 7a second paragraph (New Major Provision)
- 13) Host M/S competent authorities may require documents and certificates are presented no more than three months after their date of issue – art. 10.3
- 14) Host M/S may require title to be followed by name and location – art. 11.2
- 15) M/S to designate competent authorities empowered to receive the applications and take the decisions – art. 13.1
- 16) M/S to designate a person responsible for coordinating the activities of the authorities – art. 13.2

Note: The fact that coordinators are in charge of coordinating activities within the M/S makes this a M/S delegation provision; the establishment of a committee in Brussels is instead a provision delegating powers at the EU level, but not to the Commission.

Not included: M/S may not refuse authorisation to another M/S national – art. 3, 5, 6 (obligation); Issuance of documents and certificates – art. 10.1, 10.2, 12.1; M/S to ensure the appropriate and equivalent form of oath or declaration – art. 10.4; Competent M/S authorities to recognize the right use the professional title (obligation) – art. 11.1; M/S to take necessary measures to enable information diffusion – art. 13.3; General call – art. 17; M/S to lay down methods of making a reference to the Directive (this refers only to the fact that M/S measures should, in publication, refer to this Directive) – art. 17.1

**Number of constraints to M/S**

**Cg = 3**

- 1) Rule-making requirements: Definition of diploma, competence, professional activity, adaptation period – art. 1 and Annex C; M/S may prohibit taking up a regulated profession if the latter is subject to possession of a diploma of a four years long post-secondary course – art. 3; Rules on the period of professional experience, adaptation period or aptitude test – art. 4.1, 5, 6
- 2) Executive Action Possible: Commission may, within three months, decide against a M/S proposal not to grant applicants the right to choose between an adaptation period and an aptitude test in respect of a profession, M/S measure cannot be enacted during the three months, procedure of art. 14 – art. 4.1b second paragraph, 5 last paragraph, 7a second paragraph
- 3) Reporting requirements: Member States shall communicate to the Commission, every two years, a report on the application of the system introduced – art. 16

**Provisions delegating authority to Commission**

**Dc = 4**

- 1) Commission may decide against M/S proposal not to grant applicants right to choose between adaptation period and aptitude test (Host M/S requires diploma, ch. III), following procedure art. 14 – art. 4.1b second paragraph
- 2) Commission may decide against M/S proposal not to grant applicants right to choose between adaptation period and aptitude test (applicant has certificate, ch. IV), following procedure art. 14 – art. 5 last paragraph

- 3) Commission may decide against M/S proposal not to grant applicants right to choose between adaptation period and aptitude test (Host M/S requires certificate, ch. V), following procedure art. 14 – art. 7a second paragraph
- 4) Commission to adopt measures amending Annexes C and D, following procedure art. 15 – art. 15.5

Not included: Commission to take the initiatives to ensure the development and coordination of the communication of the necessary information – art. 13.3

**Number of constraints to Commission**

**Cc = 4**

- 1) Rule-making requirements: Definition of diploma, competence, professional activity, adaptation period – art. 1 and Annex C; Rules on the period of professional experience, adaptation period or aptitude test – art. 4.1, 5, 6
- 2) Exemption: of professions which are the subject of a separate Directive and activities of Directives of Annex A–art. 2;
- 3) Executive Action Required 3 – amendments to be adopted following the management committee procedure IIb of art. 15 (committee) – art. 15
- 4) Reporting requirements: Commission to report to the European Parliament and the Council on the application of the general system – art. 18

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**Number** 392L0085

**Title**

**Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)**

**Description: Safety and health at work of pregnant workers and workers who have recently given birth**

**Major provisions** M = 36

**Provisions delegating authority** D = 9

**Number of constraints** C = 5

**Provisions delegating authority to M/S** Dg = 7

- 1) M/S to take the necessary measures to ensure that workers are not obliged to perform night work during pregnancy and for a set period afterward – art. 7.1
- 2) M/S to take measures to ensure that workers are entitled to a continuous period of maternity leave – art. 8.1
- 3) M/S to take the necessary measures to ensure that pregnant workers are entitled time off – art. 9
- 4) M/S to take the necessary measures to prohibit the dismissal of workers during the period from the beginning of their pregnancy to the end of the maternity leave – art. 10.1
- 5) M/S to take the necessary measures to protect workers from consequences of unlawful dismissal – art. 10.3
- 6) M/S may make entitlement to pay or allowance conditional upon the worker concerned fulfilling the conditions of eligibility – art. 11.4
- 7) M/S to introduce measures necessary to enable all workers to pursue their claims by judicial process – art. 12

Not included: M/S to bring these guidelines to the attention of all employers and all female workers – art. 3.2;

General call – art. 14.1; M/S to include a reference to the Directive, methods lay down by M/S – art. 14.2

**Number of constraints to M/S** Cg = 3

1) Rule-making requirements: M/S measures must entail the possibility of transfer to daytime work or leave from work – art. 7.2; Maternity leave of a least 14 weeks, two weeks compulsory leave – art. 8; Conditions may not provide for periods of previous employment in excess of 12 months - art. 11.4

2) Appeals procedure: Article 12 (and 10) asks M/S to introduce measures necessary to enable all workers to pursue their claims by judicial process or recourse to competent authorities (to the extent that M/S are also employers, this is also a constraint for national administrations) – art. 12

3) Reporting requirements: M/S to report to the Commission every five years on the practical implementation of the provisions of this Directive – art. 14.4

**Provisions delegating authority to Commission** Dc = 2

- 1) Commission to draw up guidelines on the assessment of hazardous chemical, physical and biological agents and industrial processes – art. 3.1
- 2) Commission to amend Annex I as result of technical progress and new findings, following procedure art. 17 of Directive 89/391 – art. 13.1

**Number of constraints to Commission** Cc = 3

1) Consultation: of M/S and the Advisory Committee on Safety, Hygiene and Health Protection at Work – 3.1

2) Executive Action Required 2: amendments to be adopted following the regulatory committee procedure IIIa of art. 17 of Directive 89/391 - art. 13.1

3) Reporting requirements: Commission to periodically submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive – art. 14.5

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**Number** 392R0218

**Title**

**Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT)**

**Description: Administrative cooperation in the field of indirect taxation**

**Major provisions** M = 39

**Provisions delegating authority** D = 14

**Number of constraints** C = 3

**Provisions delegating authority to M/S** Dg = 10

- 1) M/S to nominate a central office with liaison responsibility and appoint authorities – art. 2.2
- 2) M/S to ensure that their data bases are kept up to date, complete and accurate – art. 4.1
- 3) M/S competent authority to obtain directly or may have direct access to information (VAT numbers and value of supplies of goods) – art. 4.2
- 4) M/S to obtain or have direct access to information (VAT numbers and value of supplies from person to person) – art. 4.3
- 5) M/S competent authority may at any time and in specific cases request further information – art. 5.1
- 6) M/S authority to maintain an electronic database with a register of persons with VAT numbers – art. 6.1
- 7) M/S competent authority may obtain directly or have communicated to it confirmation of the validity of VAT number – art. 6.2
- 8) M/S competent authority to ensure that persons involved in intra-Community supply of goods are allowed to obtain confirmation of the validity of the VAT number of any specified person – art. 6.4
- 9) M/S competent authorities may permit authorities designated by them to communicate directly with each other in specified cases – art. 12.1
- 10) M/S to take steps to ensure efficient internal coordination, establish direct cooperation and make suitable arrangements to ensure the smooth operation of the arrangements for the information exchange – art. 12.2

Note: Power to obtain information under article 4 has been included because it is an important power supporting the power to tax.

Not included: Article 8 asserts that M/S may continue to apply, under some conditions, provisions on notification of persons. This provision does not extent powers to be relinquished nor measures that would have expired.

Not included: M/S to take measures necessary to ensure confidentiality – art. 4.5, 6.5; applicant and requested M/S authority to reach agreement in case of dispute – art. 7.2 (not additional to traditional agreements between M/S); M/S may transmit information to a third M/S – art. 9; M/S to communicate to the Commission VAT information on intra-Community transactions (obligation) – art. 11

**Number of constraints to M/S** Cg = 1

- 1) Rule-making requirements: Conditions governing the exchange of information - Title III, art. 7; Detailed rules on secrecy – art. 9.1

**Provisions delegating authority to Commission** Dc = 3

- 1) Commission to define criteria to determine what amendments that need not be made, following procedure art. 10 – art. 4.1 last sentence (New Major provision)
- 2) Commission to decide the conditions under which access to corrected information may be granted, following procedure art. 10 – art. 4.4
- 3) Commission to set general criteria for the definition of the scope of commitments of art. 7.1, following procedure art. 10 – art. 7.1

**Number of constraints to Commission** Cc = 2

- 1) Executive Action Required 1: decisions to be adopted following the regulatory committee procedure IIIb of art. 10 (Standing Committee on Administrative Cooperation in the Field of Indirect Taxation) - art. 4.1 last sentence, 4.4, 7.1

- 2) Reporting requirements: Commission to report, every two years, to the European Parliament and the Council on the conditions of application of this Regulation - art. 14.1

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**Number** 393L0096

**Title**

**Council Directive 93/96/EEC of 29 October 1993 on the right of residence for students**

**Description: Right of residence for students**

**Major provisions**

**M = 9**

**Provisions delegating authority**

**D = 3**

**Number of constraints**

**C = 1**

**Provisions delegating authority to M/S**

**Dg = 3**

1) M/S may set duration of validity – art. 2.1

2) Extension of delegated powers under art. 2, 3, 9 of directive 68/360 to this directive – art. 2.2

3) M/S can derogate from the provisions in case of public order, security and health – art. 2.2 last paragraph (New Major Provision)

Not included: M/S to recognize the right of residence for students (obligation) – art. 1.1; General call – art. 6; M/S to lay down methods of making references to this Directive in their publications (not a power, issue only related to publication) – art. 6

**Number of constraints to M/S**

**Cg = 1**

1) Rule-making requirements: Minimum of one year validity and, if the course lasts longer, permit shall be renewable annually – art. 2.1; rule on derogation from Directive 64/221.

**Provisions delegating authority to Commission**

**Dc = 0**

Not included: Commission to draw up a report on the application of this Directive – art. 5

**Number of constraints to Commission**

**Cc = 0**

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**Number** 393L0104

**Title**

**Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time**

**Description: Organization of working time**

**Major provisions**

**M = 45**

**Provisions delegating authority**

**D = 19**

**Number of constraints**

**C = 4**

**Provisions delegating authority to M/S**

**Dg = 19**

- 1) M/S to take the measures to ensure that every worker is entitled to a rest break – art. 4
- 2) M/S may apply a minimum rest period of 24 hours – art. 5
- 3) M/S to take the measures necessary to ensure that the period of weekly working time is limited by means of laws or other agreements – art. 6.1
- 4) M/S to take the measures necessary to ensure that every worker is entitled to paid annual leave – art. 7.1
- 5) M/S to take the measures to ensure that night work involving special hazards or heavy strain do not work more than 8 hours – art. 8.2
- 6) M/S to take the measures necessary to ensure that night workers are entitled to a free health assessment and those suffering from health problems connected to night work are transferred – art. 9.1
- 7) M/S may make the work of certain categories of night workers subject to certain guarantees – art. 10
- 8) M/S to take the measures necessary to ensure that night workers and shift workers have appropriate safety and health protection – art. 12.1
- 9) M/S to take the measures to ensure that appropriate protection and prevention services are available – art. 12.2
- 10) M/S to take the measures necessary to ensure that an employer who intends to organize work according to a certain pattern takes account of the general principle of adapting work to the worker – art. 13
- 11) M/S may lay down a reference period for the weekly rest period – art. 16.1
- 12) M/S may lay down a reference period for the maximum weekly working time – art. 16.2
- 13) M/S may lay down a reference period for the length of night work – art. 16.3
- 14) M/S may derogate from some articles in some cases – art. 17.1
- 15) M/S may lay down rules for the application of derogations by the two sides of industry and for the extension of the provisions of collective agreements to other workers – art. 17.3
- 16) M/S have the option of allowing for objective reasons collective agreements to set reference periods – art. 17.4
- 17) M/S shall have the option not to apply art. 6 – art. 18.1b
- 18) M/S competent authorities may prohibit or restrict the possibility of exceeding the maximum weekly working hours – art. 18.1b(i) fourth indent (New Major Provision)
- 19) M/S to have the option of making use of a transitional period as regards the application of Article 7 – art. 18.1b(ii) (New Major Provision)

Note: article 8.2 is included because hazards and heavy strain is defined by national legislation; reference periods under art. 16 may be shorter.

Not included: article 15 asserts that the Directive does not affect M/S provisions more favourable to the protection of workers, this is a 'no prejudice' provision, prerogatives would not have been otherwise relinquished as a result of this Directive.

Not included: Some of the provisions are too specific to be considered delegation to M/S, hence they have not been included. These are: M/S to take the measures to ensure that every worker is entitled to a minimum daily rest period of 11 hours per 24-hour period – art. 3; M/S to take measures to ensure that every worker is entitled to a minimum uninterrupted rest of 24 hours plus 11 hours daily rest per each 7 days period – art. 5; M/S to take the measures necessary to ensure that the average working time for each 7-day period, including does not exceed 48 hours – art. 6.2; M/S to take the measures necessary to ensure that normal hours of work for night workers do not exceed an average of 8 hours in any 24-hour period – art. 8.1; Also not included: M/S to take the measures necessary to ensure that it is informed about employers using night workers – art. 11; Ways by which M/S may allow derogations – art. 17.3; General call – art. 18.1; M/S to lay down methods of making reference to the Directive in publication - art. 18.2

**Number of constraints to M/S**

**Cg = 4**

- 1) **Rule-making requirements:** Definitions of night time and night worker – art. 2; Rest period of 11 consecutive hours per 24-hour period – art. 3; Minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest – art. 5; Average working time for each 7-day period, including does not exceed 48 hours – art. 6.2; Paid annual leave of at least four weeks – art. 7.1; Night work involving special hazards or heavy strain do not work more than 8 hours in any period of 24 hours – art. 8.2; Reference periods not exceeding 14 days and 4, 6, 12 months – art. 16, 17.4; Rules for derogations – art. 17; Conditions for not applying art. 6 – art. 18.1; Rules on transitional period – art. 18.1b(ii)
- 2) **Consultation:** M/S may lay down a reference period for the length of night work after consultation of the two sides of industry or by collective agreements or agreements concluded between the two sides of industry at national or regional level – art. 16.3



3) Reporting requirements: M/S to report to the Commission every five years on the practical implementation of the provisions of this Directive – art. 18.5

4) Time limit: of three years for transitional period - 18.1b(ii)

Not included: Exemption: Air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training – art. 1.3;

**Provisions delegating authority to Commission**

**Dc = 0**

**Number of constraints to Commission**

**Cc = 0**

Not included: Reporting requirements: Commission to produce an appraisal report – art. 17.4, 18.1; Every five years the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive – art. 18.6 (no delegation)

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