



REPUBLIC OF SAN MARINO

DECREE-LAW no. 96 of 27 July 2012

We the Captains Regent of the Most Serene Republic of San Marino

Having regard to the conditions of need and urgency referred to in Article 2, paragraph 2, letter b) of Constitutional Law no. 183 of 15 December 2005 and in Article 12 of Qualified Law no. 184 of 15 December 2005, and more precisely the need to amend certain aspects of the legislation governing auditors in order to bring them into line with the regulatory provisions adopted by means of Delegated Decree no. 201 of 29 December 2010 and the urgent need to avoid unnecessary and prejudicial overlapping of requirements and different provisions for the regulation of entirely similar situations; Having regard to Congress of State Decision no. 24 adopted during its sitting of 23 July 2012;

Having regard to Article 5, paragraph 2 of Constitutional Law no. 185/2005 and to Articles 9 and 10, paragraph 2 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Decree-Law:

AMENDMENTS AND INTEGRATIONS TO LAW NO. 146 OF 27 OCTOBER 2004 ON THE REGISTER OF AUDITORS AND AUDITING FIRMS

Art. 1

1. Paragraph 2, letter c) of Article 4 of Law no. 146 of 27 October 2004 ("Entry in the Register") and subsequent amendments and integrations shall be replaced as follows:

“c) they have successfully passed the exam provided for in Article 6 below. Anyone who, meeting the requirements set out in Article 5 below, has passed a theoretical-practical State exam covering the subjects set out in Article 6 below or equivalent subjects in order to qualify for the exercise of professional activities, and anyone who, despite not having obtained a three-year university degree, is registered in Professional Registers having minimum access requirements equivalent to those required for registration in the Register of Auditors, shall be exempted from the exam.”.

Art. 2

1. The following paragraphs shall be added to Article 5 of Law no. 146 of 27 October 2004 ("Admission to the exam for registration in the Register") and subsequent amendments and integrations:

“4. Anyone who is registered in professional registers having minimum access requirements equivalent to those provided for registration in the Register of Auditors shall be exempted from the training period referred to in paragraph 2, letter b) above.

5. The training period referred to in letter b) of paragraph 2 above may also be carried out if an employment contract has been concluded, provided that the flexibility of working time or the qualification and purpose of the tasks performed by the trainee in the course of his work *de facto* allow him to regularly carry out the training. To this end, the trainee shall submit, together with the application for registration in the Register of Trainees, a statement as to whether there is an ongoing employment relationship at the time of registration, indicating the working hours and/or qualification and tasks performed. The Ministry of Industry shall also be notified of any changes in the employment status occurring after registration in the Register. The provisions of Article 6 of Regulation no. 1 of 27 February 2008 shall in any case remain unaffected.”.

Art. 3

Article 9, paragraph 2 of Law no. 146 of 27 October 2004 (“Good repute”) and subsequent amendments and integrations shall be replaced as follows:

“2. Any company whose legal representative or the majority of the directors referred to in letter c), paragraph 2 of Article 7 above are in any of the situations indicated in the first paragraph of this Article shall not be registered in the Register.”.

Art. 4

1 Paragraph 1, letter e) and paragraph 2 of Article 11 of Law no. 146 of 27 October 2004 (“Suspension from registration in the Register”) and subsequent amendments and integrations shall be replaced as follows:

“e) have not carried out, pursuant to paragraph 2 of Article 10 above, regular activities of professional updating and training. Suspension shall be ordered in the following manner and terms:

- i) If, on 31 December of the training year of reference, it is found that the compulsory training hours have not been fully completed, a suspension of six months from the date of adoption of the measure shall be applied;
- ii) If, on 31 December of the training year of reference, it is found that more than 15 hours of compulsory training have not been completed, a suspension of three months from the date of adoption of the measure shall be applied;
- iii) If, on 31 December of the training year of reference, it is found that from a minimum of 6 to a maximum of 15 hours of compulsory training have not been completed, a suspension of one month from the date of adoption of the measure shall be applied;
- iv) If, on 31 December of the training year of reference, it is found that a maximum of 5 hours of compulsory training have not been completed, it shall be possible to recover such hours within the training year following the reference year; if such time-limit elapses unsuccessfully, a suspension of six months from the date of adoption of the measure shall be applied.

A new registration following the suspension measures referred to above shall be requested by the parties concerned.

For the training year in which one of the above suspension measures is ordered, the training obligation shall be related to the period in which registration is active.

2 The decisions of the Minister of Industry may be appealed against by the interested parties pursuant to Law no. 68 of 28 June 1989.”.

Art. 5

1. Article 12 of Law no. 146 of 27 October 2004 and subsequent amendments and integrations shall be replaced as follows:

*“Art. 12
(Removal from the register)*

1. If the Minister of Industry finds that the requirements provided for by this Law are not met, he shall notify the person concerned thereof and shall assign him a period of 60 days to remedy the deficiencies; if such time-limit elapses unsuccessfully, he shall order the suspension from registration in the Register. If, within a maximum period of six months from the suspension, the deficiencies found have not been remedied, the Minister of Industry shall order removal from the Register.

2. The removal measure shall be motivated and the person concerned shall be notified thereof.

3. The decisions of the Minister of Industry may be appealed against by the interested parties pursuant to Law no. 68 of 28 June 1989.”.

Art. 6

1. As of 1 January 2013, the fee for the renewal of the registration, to be paid in accordance with the terms and conditions laid down in Decree no. 1 of 24 January 2005, shall be due in full by all those whose registration in the Register is active on 1 January of each year.

Art. 7

1. Any law provision which is not expressly referred to in this Decree-Law and is contrary to a provision contained herein shall be deemed to have been repealed.

Done at Our Residence, on 27 July 2012/1711 since the Foundation of the Republic

THE CAPTAINS REGENT
Maurizio Rattini – Italo Righi

THE MINISTER OF
INTERNAL AFFAIRS
Valeria Ciavatta