



Professional Qualifications Bill [HL]

HL Bill 2 of 2021–22

Author: Charley Coleman

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On 25 May 2021, the second reading of the [Professional Qualifications Bill \[HL\]](#) is scheduled to take place in the House of Lords.

The Professional Qualifications Bill was announced in the Queen's Speech on 11 May 2021. The bill would make provisions relating to professional qualifications and their recognition in the UK. It follows a government consultation on professional qualifications that ran between August and October 2020.

The bill would create a number of regulation-making powers designed to implement a new framework for the recognition of overseas professional qualifications in the UK. This would replace existing EU-derived law in this area, including an interim system on recognition that has been in place since the end of the transition period. Alongside these powers, the bill would:

- make provision for the implementation of international agreements on the recognition of professional qualifications;
- create powers to authorise regulators in the UK to enter into regulator recognition agreements with regulators overseas;
- make provision related to the sharing of information between regulators; and
- amend the Architects Act 1997.

Many of the bill's changes to the law would be achieved through regulation-making powers. The Government has argued this is necessary because the changes need to be integrated into an existing legislative scheme for a given profession and a single approach for all professions would not be practicable. The Department for Business, Energy and Industrial Strategy has set out the Government's assessment of the delegated powers in its delegated powers memorandum to the House of Lords Delegated Powers and Regulatory Reform Committee. At the time of publication, the committee had not yet reported on the bill.

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I. Introduction and bill's purpose

The Professional Qualifications Bill [HL] was announced in the Queen's Speech on 11 May 2021. The bill is starting in the House of Lords and had its first reading on 12 May 2021. It is scheduled to have its second reading on 25 May 2021. The bill would make a number of provisions relating to professional qualifications and their recognition in the UK.

There are over 160 professions that are regulated by legislation in the UK and more than 50 regulators.¹ A regulated profession is one "in which there are restrictions to pursuing the activities or a subset of activities of the profession, such as for doctors, and/or legal restrictions for using a professional title, such as the use of 'architect' in the UK".² The Government has argued that regulating professionals "is a critical element of UK public and private services" and helps ensure safety of services and maintain professional standards and consumer confidence.³ Requirements for certain qualifications can help ensure individuals have any necessary knowledge, skills and experience. Where an individual has qualifications gained overseas recognition requirements make sure they are equivalent to those required to practise in the UK.⁴

Speaking during the debate on the Queen's Speech, Baroness Berridge, the Parliamentary Under Secretary of State for the School System and the Minister for Women, gave an overview of the Professional Qualifications Bill:

Supporting our highly skilled, regulated professions to deliver vital services is key. Our regulators must have the autonomy to set the standard required to practise in the UK. The Professional Qualifications Bill, introduced into this House just now, will establish an effective regulatory system for professional qualifications. It will facilitate the recognition of professional qualifications that meet the needs of all parts of the United Kingdom and support our professionals to deliver their services in overseas markets.⁵

Many of the bill's changes to the law would be achieved through regulation-making powers. The Government has said this is because there are "many different legislative schemes specific to different professions and regulators".⁶ Changes would need to be integrated into the existing legislative scheme for

¹ [Explanatory Notes](#), para 3.

² *ibid*, para 3. For the purposes of the bill a specific definition of a regulated profession is provided for in clause 16.

³ *ibid*, para 5.

⁴ *ibid*.

⁵ [HL Hansard, 12 May 2021, col 40](#).

⁶ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 4.

a given profession because a single approach covering all affected professions would not be “practicable”.⁷ The Government has said that the bill would therefore create a framework under which profession-specific provisions could be made through regulations.

The bill would create a number of regulation-making powers designed to implement a new framework for the recognition of overseas professional qualifications in the UK. This would replace existing EU-derived law in this area, including an interim system on recognition that has been in place since the end of the transition period.

The bill would also make provisions related to international cooperation on the recognition of professional qualifications. It would grant regulation-making powers allowing the implementation of international agreements, or parts thereof, that relate to the recognition of professional qualifications. It would also create regulation-making powers to authorise regulators of a regulated profession to enter into regulator recognition agreements (RRAs).

The bill would make provision in relation to information sharing and assistance. It would require the secretary of state to make arrangements for a designated ‘assistance centre’ to provide advice and assistance for the recognition of professional qualifications to individuals seeking recognition either in the UK or overseas. It would also require regulators to publish information on requirements to practice in their particular profession. In addition, it contains provisions on the sharing of information between regulators in different parts of the UK and between regulators in the UK and overseas regulators.

The bill would also make amendments to the Architects Act 1997 to “allow a new recognition system for architects, alongside adjustments to the administration of the Architects Registration Board to support efficiency”.⁸

1.1 Government policy statement on professional qualifications

On 12 May 2021, the Government published a policy statement on its proposals for the recognition of professional qualifications from overseas and the regulation of professions across the UK.⁹

The Government argued that professionals drawn from overseas brought diversity, as well as helping the UK meet its skills demands. It said there needed to be confidence that professionals were qualified “wherever they

⁷ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 5.

⁸ [Explanatory Notes](#), para 2(i).

⁹ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021.

developed their expertise”.¹⁰

Whilst the Government stated it intended to replace existing EU-derived legislation on the recognition of professional qualifications, it said it would “keep those parts of the EU-derived system that work well for our professions and professionals’ needs and adapt those that work less well”.¹¹

The Government also said it acknowledged that different nations of the UK had different skills needs and that regulation of professions is devolved in many areas. It has argued that its proposals would uphold the autonomy of regulators and devolved administrations in determining professional standards.

The Government explained it would seek reciprocal arrangements on the recognition of professional qualifications as part of its trade agenda. This included “equipping regulators to pursue agreements with their counterparts in other countries where they want to do so”.¹² The Government said it wanted to facilitate “the continued strong reputation of UK professional qualifications, which will support export opportunities, including education exports and the recruitment of international students”.

The Government said that the recognition of qualifications was important for ensuring the UK maintained its commitments as part of the Common Travel Area (CTA). The UK and Ireland signed a Memorandum of Understanding on the CTA in 2019.¹³ The explanatory notes to the Professional Qualifications Bill state that both the UK and Irish governments have agreed to ensure there are suitable routes to recognition for qualified professionals across the UK and Ireland:

These routes to recognition will be established either through regulators putting in place routes if their profession is within the new framework, or through recognition arrangements either agreed between UK and Irish regulators and professional bodies or using the UK-EU Trade and Cooperation Agreement mutual recognition agreement framework.¹⁴

The Government consulted on its approach to the recognition of professional qualifications and the regulation of professions between

¹⁰ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 4.

¹¹ *ibid.*

¹² *ibid.*, p 5.

¹³ Cabinet Office, ‘[Memorandum of Understanding between the UK and Ireland on the CTA](#)’, 8 May 2019.

¹⁴ [Explanatory Notes](#), para 9.

25 August and 23 October 2020. It published its response on 12 May 2021.¹⁵

The Government stated that feedback from the consultation and its engagement with other stakeholders indicated that the regulatory landscape that had developed for professions was complex:

We heard examples of how the regulatory landscape can operate smoothly, recognise expertise and be agile in responding to changing needs; but we also found that there is considerable diversity of approaches and expectations, which can be difficult to navigate.¹⁶

The Government said that it valued the expertise of regulators of professions in the UK. It said its reforms were designed to comprise “an overarching framework within which regulators can operate and make decisions autonomously”. The Government said its proposals “set the foundations for all these policies, enabling approaches to the recognition of professional qualifications that meet the needs of all parts of the UK”.¹⁷

The Government has also published an impact assessment for the bill.¹⁸

1.2 Current UK law

The UK’s current framework for recognising professional qualifications gained overseas is derived largely from EU law.¹⁹ The basis of this law is the EU Mutual Recognition of Professional Qualifications Directive 2005 (MRPQ directive). The MRPQ directive provided a framework for the recognition of professional qualifications across the EU. It enables the qualifications of European Economic Area (EEA) and Swiss nationals to be recognised in a state other than the one in which the qualification was gained.²⁰

The European Union (Recognition of Professional Qualifications) Regulations 2015 implement part of the MRPQ directive in the UK.²¹ The UK’s legal framework for the recognition of professional qualifications has been amended in connection with the UK’s withdrawal from the EU. The Recognition of Professional Qualifications (Amendment etc.) (EU Exit)

¹⁵ Department for Business, Energy and Industrial Strategy, [‘Recognition of professional qualifications and regulation of professions: call for evidence’](#), 12 May 2021.

¹⁶ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 5.

¹⁷ *ibid.*

¹⁸ Department for Business, Energy and Industrial Strategy, [Professional Qualifications Bill: Impact Assessment](#), 11 May 2021.

¹⁹ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 6.

²⁰ [Explanatory Notes](#), para 11.

²¹ *ibid.*, para 12.

Regulations 2019 amended the 2015 regulations to provide for an interim system for the recognition of professional qualifications from the EEA and Switzerland. This came into force at the end of the transition period.

Subsequently, the Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020 amended the 2019 regulations “primarily to implement transitional arrangements that the UK agreed with the EU, EEA EFTA states (Iceland, Liechtenstein and Norway), and Switzerland”.²² These were the recognition of professional qualifications provisions in the EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Swiss Citizens’ Rights Agreement (the agreements).²³

The Department for Business, Energy and Industrial Strategy has explained that the agreements do not provide for ongoing arrangements for the recognition of professional qualifications:

It is important to note that neither the agreements nor the transitional and saving provisions provide for ongoing arrangements for individuals to seek recognition of their professional qualifications in the UK after the 1 January 2021. The only ongoing arrangements are the new temporary general system contained in the amended 2015 regulations, and systems provided for in other legislation for certain specific professions [...].²⁴

The Government has said that the interim system was put in place to provide certainty to UK businesses and “maintain workforce supply for professions such as nursing and teaching”.²⁵ However, the Government has argued that the interim system could limit the pool of professionals available to the UK because individuals from outside the EEA or Switzerland could face hurdles to recognition:

This has resulted in what may be perceived as preferential treatment to professionals with Swiss and EEA qualifications, as regulators are not generally obliged in law to have recognition routes for professional qualifications from elsewhere. In practice, many regulators do have these arrangements in place with their counterparts in other countries. Nonetheless, the interim system can mean that professionals with qualifications from outside the EEA or Switzerland face hurdles if seeking recognition of their qualifications in the UK, such as higher

²² [Explanatory Notes](#), para 12.

²³ [Explanatory Memorandum to the Professional Qualifications and Services \(Amendments and Miscellaneous Provisions\) \(EU Exit\) Regulations 2020](#), para 2.1.

²⁴ Department for Business, Energy and Industrial Strategy, ‘[Recognition of professional qualifications: guidance for regulatory bodies](#)’, 23 December 2020.

²⁵ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 6.

application fees compared to their EEA or Swiss counterparts, or in some cases, no means to seek recognition at all.²⁶

The Professional Qualifications Bill would revoke the 2015 regulations and contains powers to revoke other EU-derived legislation on the recognition of professional qualifications that were retained following the UK's withdrawal from the EU.²⁷

2. Overview of the bill's provisions

The bill has 19 clauses and no schedules.

2.1 New frameworks for recognition

Clause 1 would create a regulation-making power to establish new frameworks for recognising an individual's professional qualifications and experience gained overseas when seeking to practice in a regulated profession in the UK, subject to certain conditions. The Government has described the purpose of the regulation making power in clause 1 as follows:

The purpose of this power is to establish a means by which professional qualifications obtained outside the UK may be recognised within the UK (or a part of it). The objective is to make sure that where it is in the UK's interests to have professionals qualified overseas working or providing services in the UK or any part of it, those professionals have a means to have their professional qualifications recognised in the UK, or the relevant part of the UK, so as to enable them to practise that profession.²⁸

Clause 1(1) would enable "the appropriate authority" to make provision in regulations for individuals seeking to enter a regulated profession to be treated as if they have a specified UK qualification or specified UK experience.²⁹ This is subject to one of two conditions being met. The first condition is where a regulator has determined that an individual's qualifications or experience gained overseas demonstrate "substantially the same knowledge and skills, to substantially the same standard" to specified UK qualifications or experience.³⁰ The second condition is where a specified

²⁶ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 7.

²⁷ [Explanatory Notes](#), para 13.

²⁸ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 13.

²⁹ The term regulated profession is defined in clause 16(1) as "a profession that is regulated by law in the United Kingdom or a part of it". A definition of "regulated by law" is provided in clause 16(3).

³⁰ Clause 1(2).

regulator determines that an individual's qualifications or experience falls short of demonstrating substantially the same knowledge and skills, to substantially the same standard, but the regulator has determined that further qualifications or experience could make up any shortfall.³¹

The bill does not set out how a regulator should make such a determination. The explanatory notes state that regulators are free to determine whether overseas qualifications and experience demonstrate substantially the same knowledge and skills, to substantially the same standard as the UK qualification or experience "as they see fit", but regulations made under clause 1(1) may set out further detail on the approach to be taken.³²

The explanatory notes also state that, whilst regulations made under clause 1 allow for the recognition of qualifications or experience gained overseas, there may be other requirements an individual must meet to practise the profession in the UK (for example, criminal records checks or visa requirements).³³

Clause 1(4) would allow regulations to include provision for individuals to make an application to have their qualifications or experience recognised. Clause 1(5) includes examples of provisions that could be made under clause 1(4). For example, on the information to be included with an application or on fees that may be payable.

Under clause 2(1) and 2(2), regulations under clause 1 may only be made if the appropriate authority is satisfied that it is required to meet the UK's, or a part of the UK's, demand for the services provided by that profession without "unreasonable delays or charges".³⁴ The explanatory notes provides the example of "areas where there are skills shortages in the UK".³⁵ The Government's May 2021 policy statement on professional qualifications said that the UK Government and the devolved administrations would be able to identify and specify in regulations "a priority set of professions where there is demand for skills from overseas".³⁶ The UK Government, and where applicable devolved administrations, would be able to make their own determinations of the demand for overseas skills. The Government has said that considerations would include:

- whether the profession is on the shortage occupation list;
- vacancy levels;

³¹ Clause 1(3).

³² [Explanatory Notes](#), para 22.

³³ *ibid*, para 25.

³⁴ *ibid*, para 28.

³⁵ *ibid*.

³⁶ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 9.

- workforce modelling and skills forecasting; and,
- whether there are other ways that professions might address shortages, such as arrangements already in place to recognise qualifications from other countries.³⁷

The Government has stated that it would allow for these determinations “to evolve in line with future needs of different sectors and parts of the UK”.³⁸ UK and devolved ministers would be able to prioritise professions where the regulation of those professions was within their legislative competence. The Government also stated that it would make sure its trade agenda was “supported in identifying the priority set of professions”. The policy statement indicated that requirements placed on regulators for non-priority professions would be different:

Outside those professions on the priority list, regulators will have the flexibility to consider professional qualifications from overseas, but they will not be required to have those arrangements in place for all countries across the world in the same way as some regulators will for priority professions.³⁹

Clause 2(3) would allow for revocation, repeal and amendment of regulations made under clause 1 without meeting the requirement of clause 2(2), so long as they do not add to the professions or parts of the UK to which they related.

The Government has said that many of the professions in scope of clause 1’s regulation-making power have pre-existing legislative frameworks governing how they are regulated.⁴⁰ It has argued that it is not feasible for the bill itself to take account of each of these frameworks and therefore there is a need for implementation through regulations:

As a result, while the ability to allow for an overseas qualification to be treated as though it were the specified UK qualification is set out on the face of the bill along with the conditions that must be met, it is necessary to provide for this to be implemented in a manner tailored to each profession by the appropriate national authority through regulations.⁴¹

³⁷ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 9.

³⁸ *ibid.*

³⁹ *ibid.*

⁴⁰ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 21.

⁴¹ *ibid.*, para 22.

The power to make these regulations would be available to “the appropriate national authority”, defined under clause 14 as the secretary of state or the Lord Chancellor, Scottish ministers, Welsh ministers or Northern Ireland departments, depending on whether a regulated profession falls within devolved competence.⁴² The Government has explained that the power has been conferred as a concurrent power because of the relationship between devolved competence and other UK legislation:

With the exception of the power to make commencement regulations and powers specific to the profession of architect, all of the powers in this bill have been conferred on the devolved administrations to allow them to exercise those powers in areas of devolved competence. They have been conferred as concurrent powers meaning that they can be used either by the secretary of state or the Lord Chancellor, or the relevant devolved authority in devolved areas. This approach has been taken because of the way professions are regulated across the UK—only a small number are reserved, but even where the regulation of a profession is devolved, there may be UK-wide legislation. We therefore need to have concurrent powers to give the flexibility to ensure that the most efficient and appropriate approach to implementation can be taken in every situation.⁴³

The Government has stated that it would “not normally make regulations under these powers in devolved areas without the agreement of the relevant devolved authority”.⁴⁴

In the impact assessment on the bill, the Department for Business, Energy and Industrial Strategy (BEIS) has said that “88 professions are expected to be specified in the new recognition framework, covered by 18 regulators”.⁴⁵

2.2 Implementation of international recognition agreements

Clause 3 would provide a power for the appropriate authority to make regulations it “considers appropriate for the purpose of, or in connection with, implementing any international recognition agreement to which the United Kingdom is a party”.⁴⁶

⁴² [Explanatory Notes](#), para 19.

⁴³ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 9.

⁴⁴ *ibid.*

⁴⁵ Department for Business, Energy and Industrial Strategy, [Professional Qualifications Bill: Impact Assessment](#), 11 May 2021, para 60.

⁴⁶ Clause 3(1).

The Government has explained that this could be either implementing a standalone agreement or part of a wider agreement:

The power could be used to implement a standalone agreement that solely addresses the recognition of professional qualifications, or to implement the professional qualifications aspects of a wider agreement such as a free trade agreement. Regulations may confer functions on a person (such as a regulator) including a discretion but not including a power to make subordinate legislation; make provision for the sharing of information; and make provision for the charging of fees.⁴⁷

Clause 3(3) “clarifies that regulations made using this clause that concern information sharing cannot contravene the UK’s data protection legislation”.⁴⁸

The Government has argued this is required because the power relates to agreements that have not yet been concluded and therefore “the terms of those agreements are not known”. Therefore it is “not possible to deliver the necessary changes on the face of the bill”.⁴⁹

The Government has also argued it requires the flexibility because of pre-existing legislative frameworks governing regulation of professions:

[A] flexible approach is necessary so that, as and when a new international agreement is negotiated and before it comes into force, it can be successfully implemented into the existing framework provided for each profession by its governing legislation. This necessarily includes the ability to amend, revoke, repeal and modify primary legislation or retained direct principal EU legislation.⁵⁰

The Government has stated that the powers in the Trade Act 2021 to implement international agreements are not sufficient for the purposes of the Professional Qualifications Bill:

The powers in the Trade [Act] are not sufficient for these purposes. Although [section] 2 of that [Act] contains a power (subject to expiry) to implement international trade agreements, including by amending primary legislation that is retained EU law, much of the legislation that makes up UK regulators’ frameworks is not retained EU law. The exercise of that power is also limited to the implementation of “trade

⁴⁷ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 28.

⁴⁸ [Explanatory Notes](#), para 36.

⁴⁹ *ibid*, para 30.

⁵⁰ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 32.

continuity agreements” ie where a trade agreement was in place between the EU and the same third country (or countries) immediately before Exit day.⁵¹

The explanatory notes state that the power in clause 3 would “not be necessary to implement any mutual recognition agreements agreed through the EU-UK Trade and Cooperation Agreement [TCA], which can be implemented using powers in the European Union (Future Relationship) Act 2020”.⁵²

2.3 Regulator recognition agreements

Amongst its provisions, clause 4 would allow the appropriate national authority to make regulations it “considers appropriate for the purpose of, or in connection with, authorising a regulator of a regulated profession to enter into regulator recognition agreements (RRAs)”.

An RRA is “an agreement between a UK regulator and an international counterpart on the recognition of professional qualifications”.⁵³ The explanatory notes state these agreements can give professionals the ability to get their qualifications recognised and to support the value of UK qualifications internationally:

Regulator recognition agreements can give professionals who have gained their qualifications in one jurisdiction the ability to have them recognised in another. For example, to provide a route for a UK-qualified engineer to be able to practise their profession outside the UK. Such agreements can support professions to operate internationally, including trade in services, and they also support the value of UK qualifications internationally.⁵⁴

The regulation-making power could be used to give UK regulators the ability to enter into RRAs outside of a government-negotiated international agreement framework.⁵⁵ Some regulators are already able to enter into RRAs using their general powers. Where regulators do not have these powers, the “regulations are intended to operate as an entire, one-off

⁵¹ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 33.

⁵² [Explanatory Notes](#), para 32. For further information on the TCA’s provisions on professional qualifications see: House of Commons Library, [UK-EU TCA: professional qualifications](#), 25 March 2021.

⁵³ [Explanatory Notes](#), para 37.

⁵⁴ *ibid.*

⁵⁵ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 38.

solution to enable the relevant regulator to enter into RRAs”.⁵⁶ The Government has stated that it intends the power to be needed only once for each profession:

This will enable UK regulators to establish new recognition relationships with new international partners, as well as adjusting their existing relationships with EU regulators in response to the impact of Brexit.⁵⁷

The Government has also stated that the power can only be used for the “very specific purpose of authorising a UK regulator to enter into agreements with overseas regulators relating to the recognition of qualifications and experience for the purpose of determining eligibility to practise a profession”.⁵⁸ It has said that it is intended to complement regulators’ existing powers, “and cannot be used to change regulators’ abilities to recognise overseas qualifications or to determine who can practise in the UK (or, where applicable, a part of it)”.⁵⁹ Regulators would only be able to implement RRAs “through their existing powers to recognise and assess overseas qualifications and overseas applicants”.

The Department for Business, Energy and Industrial Strategy (BEIS) has established a ‘recognition arrangements team’ to support regulators and professional bodies to pursue recognition arrangements with their counterparts overseas. The Government has stated that this team is “already working with regulators to facilitate these types of arrangements, including encouraging engagement with Irish counterparts to uphold the UK’s commitments under the Common Travel Area”.⁶⁰ BEIS has also published guidance for regulatory and professional bodies on arrangements to facilitate the mutual recognition of professional qualifications.⁶¹

2.4 Revocation of EU-derived law

Clause 5(1) would revoke the European Union (Recognition of Professional Qualifications) Regulations 2015 (SI 2015/2059). Under clause 5(2) the appropriate national authority may by regulations make “such modifications of legislation as the appropriate national authority considers to be appropriate in consequence of subsection (1)”. The Government has stated

⁵⁶ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 39.

⁵⁷ *ibid.*

⁵⁸ *ibid.*, para 40.

⁵⁹ *ibid.*

⁶⁰ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 11.

⁶¹ Department for Business, Energy and Industrial Strategy, [‘Arrangements for the recognition of professional qualifications’](#), 12 May 2021.

that it expects a “large number” of amendments would be required across a wide range of acts. It has argued it therefore “seems prudent to take a power rather than to attempt to capture all of the amendments in the bill”.⁶²

In addition to the 2015 regulations, a range of other legislation implemented EU law on the recognition of qualifications, including, for example, the Medical Act 1983.⁶³ Clause 6(1) would allow the appropriate national authority to make regulations modifying any retained EU recognition law to make it cease to have effect to any extent. Clause 6(2) defines retained EU recognition law as:

[R]etained EU law that provides for, or relates to, the recognition of overseas qualifications or overseas experience for the purpose of determining whether individuals are entitled to practise a regulated profession in the United Kingdom or a part of it.

The power would allow for the revocation of retained EU law that relates to the preferential recognition of qualifications and experience from the EEA and Switzerland.⁶⁴

Clause 5(1) would come into force on a day specified by the secretary of state in regulations. BEIS has said that it intends that commencement regulations would “include savings and transitional provisions relating both to qualifications that have already been recognised and to applications that are already in progress but not yet complete”.⁶⁵ It has said that the effect of this would be that revocation of the 2015 regulations would not affect the status of qualifications that had already been recognised and that applications could be completed.

The Government has stated that the new recognition framework to be implemented under powers in clause 1 would be implemented alongside revoking the 2015 regulations.⁶⁶ It has also stated that the revocation of the 2015 regulations would not affect commitments under the Common Travel Area (CTA). The explanatory notes state that the UK is also retaining law on qualifications which implements obligations on the recognition of professional qualifications under the withdrawal, EEA EFTA separation, and Swiss Citizens’ rights agreements.⁶⁷

⁶² Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 46.

⁶³ *ibid*, para 48.

⁶⁴ *ibid*.

⁶⁵ [Explanatory Notes](#), para 101.

⁶⁶ *ibid*, para 43.

⁶⁷ *ibid*, para 45.

Clause 6 would come into force on the day the bill was passed. In the context of clause 6, the Government has said not all pieces of relevant legislation will be revoked at the same time. Some arrangements may be kept for a longer period depending upon the needs of a given sector:

In particular, it is expected that the healthcare sector will need a longer period of time to transition to the new system to avoid recruitment and retention issues in those sectors. BEIS is of the view that it is appropriate to allow for Departments and devolved authorities to revoke these measures at an appropriate time, without fixing a particular date in the bill.⁶⁸

2.5 Provisions on assistance and information sharing

Clauses 7, 8, 9 and 10 relate to information sharing and provision.

Clause 7 would require the Government to make arrangements “for another person (“the assistance centre”)” to provide advice and assistance to individuals who are “seeking to practise a regulated profession in the United Kingdom or a part of it, and such other persons as the secretary of state considers appropriate”.⁶⁹ It would also provide advice and assistance on entry requirements for overseas professions to individuals with UK qualifications or experience seeking to practise overseas, “and such other persons as the secretary of state considers appropriate”.⁷⁰

Regulators of a regulated profession would have to provide certain information to the assistance centre to enable it to discharge its functions. The assistance centre would be required to provide the secretary of state with information relating to the discharge of its duties on request. Clause 7(4) “provides that any information shared between regulators in the UK and the assistance centre does not breach confidentiality obligations or any other restriction on the disclosure of information”.⁷¹

The Government has stated that the purpose of the assistance centre would be to facilitate transparency on the recognition and regulation of professional qualifications in the UK.⁷²

The Government has stated that it has an existing contract with the UK Centre for Professional Qualifications to be the designated assistance

⁶⁸ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 50.

⁶⁹ Clause 7(1)(a)(i) and (ii).

⁷⁰ Clause 7(1)(b)(i) and (ii).

⁷¹ [Explanatory Notes](#), para 51.

⁷² *ibid*, para 48.

centre.⁷³

The Government has described clause 8 as a new transparency duty designed to reduce the risk of a lack of information being a barrier to people entering professions. Clause 8 would require regulators of a regulated profession to publish certain information on a website it maintained setting out information about the requirements for entering or remaining in their profession. The information is set out in clause 8(2) and includes information on the qualifications or experience required to become entitled to practice. Under clause 8(2)(j), the list in clause 8(2) could be added to by the appropriate national authority. This power could be used if it was determined there was a lack of transparency “in relation to other types of information held by regulators, for example diversity and inclusion data or appeals processes”.⁷⁴

Clause 9 would place a duty on regulators who operate in one or more UK nations to share information with counterparts in the other parts of the UK, when requested and if such a regulator exists.⁷⁵ The request may be made by the second regulator or by an individual seeking certain information to be provided to the second regulator. The explanatory notes set out an example of this:

[A] regulator in one part of the UK could ask an equivalent regulator in another part of the UK for information relating to an individual’s fitness to practise and, where applicable, any instances of professional sanctions. This provision ensures that regulators in all parts of the UK have access to information that helps them fulfil their obligations.⁷⁶

The duty would apply where an individual is, or has been, entitled to practise a regulated profession in a part of the UK and they are seeking to practise a corresponding regulated profession in another part of the UK. The Government has said that some regulators in the UK already did this on a voluntary basis but it wanted to give this a legislative underpinning.⁷⁷ Clause 9(3) “provides that information that is shared by regulators within the UK to comply with this provision does not breach confidentiality obligations or other restrictions on disclosure that are placed on the regulator”.⁷⁸

⁷³ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 11.

⁷⁴ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 61.

⁷⁵ [Explanatory Notes](#), para 60.

⁷⁶ *ibid.*

⁷⁷ Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 12.

⁷⁸ [Explanatory Notes](#), para 63.

Clause 10(2) provides for a duty on a UK regulator to share information with an overseas regulator where an individual is, or has been, entitled to practise a regulated profession in the UK (or a part of the UK) and they are seeking to practise a corresponding profession outside the UK. This duty would not apply unless the overseas regulator has the permission of the individual.

Under clause 10(4) the appropriate national authority may make regulations containing provisions it considers appropriate in connection with the duty imposed by clause 10(2). Clause 10(5) provides examples of what the regulations may cover. For example, that the duty only applies if the request by the overseas regulator or the individual is made in a specified manner or upon the payment of a specified fee. The Government has argued it is appropriate for these provisions to be made in regulations because the regulations would be “generally technical in nature and the measures taken may be required to be adapted as circumstances change”.⁷⁹ Clause 10(6) “provides that any information that is shared with overseas regulators does not breach confidentiality obligations or other restrictions on disclosure that are placed on the regulator”.⁸⁰

Clause 7(5), clause 9(4) and clause 10(7) have identically worded provisions related to data protection: “Nothing in this section requires the making of a disclosure which contravenes the data protection legislation (save that the duty imposed by this section is to be taken into account in determining whether any disclosure contravenes that legislation)”.⁸¹

2.6 Architects Act 1997

Clause 11 would make amendments to the Architects Act 1997 to “allow a new recognition system for architects, alongside adjustments to the administration of the Architects Registration Board to support efficiency”.⁸²

For example, clause 11(2) would allow the Architects Registration Board (the board) to nominate a member of staff to carry out the functions of the registrar. The explanatory notes to the bill explain that the role of registrar includes adding and removing architects to and from the register. The new provision would allow for a member of staff to undertake the functions of the registrar should they be absent; for example, due to leave or ill health. Other amendments to the Architects Act 1997 would allow registered individuals to request that their address was wholly or partially excluded

⁷⁹ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 57.

⁸⁰ [Explanatory Notes](#), para 72.

⁸¹ ““data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act)” (clause 16(1)).

⁸² [Explanatory Notes](#), para 2(i).

from the published register if their business address was also their residential address and they apply in a prescribed manner. The board would still hold the full address but would only publish a geographical indicator on the register.⁸³

Clause 11(4) would make amendments to the 1997 act enabling the board to verify that overseas applicants registering under qualifications prescribed by section 4(1)(a) of the 1997 act “have knowledge and understanding of the UK context before they can practise in the UK as an architect”.⁸⁴ Compensatory measures would be determined by the board but could include “additional academic or vocational training and qualifications, supervised workplace experience or competence tests”.⁸⁵ The explanatory notes explain that:

Currently, the board has the power to prescribe international qualifications, but does not do so, as the 1997 Act does not provide a means for ensuring that all applicants have an understanding of the UK context. Overseas applicants have in the past sought recognition under section 4(2A)(a) if holding a listed EU qualification under the MRPQ directive, or via section 4(1)(b) which provides for an assessment of equivalence and a prescribed examination. Subsection (4) of clause 11 will enable the board to request compensatory measures alongside prescribed overseas qualifications and experience.⁸⁶

2.7 Remaining provisions

General provisions on regulations

The bill contains nine delegated powers. Six of these are Henry VIII powers.⁸⁷ BEIS has set out the Government’s assessment of the delegated powers in its delegated powers memorandum to the House of Lords Delegated Powers and Regulatory Reform Committee (DPRRC).⁸⁸ At the time of publication, the DPRRC had not yet reported on the bill.

Clause 13 makes provisions relating to the bill’s regulation-making powers. Clause 13(1) provides—subject to subsections (2) to (4)—that any power to

⁸³ [Explanatory Notes](#), para 80.

⁸⁴ *ibid*, para 81.

⁸⁵ *ibid*, para 82.

⁸⁶ *ibid*, para 83.

⁸⁷ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 50. Henry VIII powers enable ministers to amend or repeal provisions in an Act of Parliament using secondary legislation (UK Parliament, ‘[Henry VIII clauses](#)’, accessed 19 May 2021).

⁸⁸ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 50.

make regulations under the bill includes the power:

- (a) to modify legislation,
- (b) to make different provision for different purposes, and
- (c) to make supplementary, incidental, consequential, transitional, transitory or saving provision.⁸⁹

Clause 13(2) provides that the regulation-making power under clause 8 does not include power to modify legislation, other than earlier regulations made under that clause. Clause 13(3) provides that the regulation-making powers under clauses 10 and 18 do not include powers to amend, repeal or revoke legislation, other than earlier regulations made under either of those sections. Under clause 13(4), clause 13(1)(b) and (c) do not apply in relation to a power to make regulations under section 18.

Parliamentary procedure for making regulations

Clause 15 sets out the parliamentary procedures to apply to the bill's regulation-making powers, except for powers on commencement in clause 18. Amongst its provisions, clause 15 provides that any regulations that contain provisions "amending, repealing or revoking primary legislation or retained direct principal EU legislation" are subject to the affirmative resolution procedure.

Clause 16 provides interpretation for certain terms used. Clauses 17, 18 and 19 relate to the bill's extent, commencement, and short title respectively.

3. Devolution and common frameworks

As discussed in section 2.1 of this briefing, the bill would confer regulation-making powers concurrently onto the secretary of state or the Lord Chancellor, Scottish ministers, Welsh ministers or Northern Ireland departments.

The Government has stated that "only a small number" of regulated professions are reserved.⁹⁰ The explanatory notes state that because the bill is not limited to specific professions, it contains provisions concerning devolved matters in Scotland and Wales and transferred matters in Northern Ireland.⁹¹ It said that the Government would be seeking legislative consent motions (LCMs) from each of the devolved legislatures.

⁸⁹ Clause 13(1).

⁹⁰ Department for Business, Energy and Industrial Strategy, [Delegated Powers Memorandum: Professional Qualifications Bill](#), 12 May 2021, para 9.

⁹¹ [Explanatory Notes](#), para 110.

The Government has said that it believes that differences in the way some professions are regulated in different parts of the UK “is an important part of national and regulator autonomy, supporting all UK nations to meet their priorities”.⁹² It has stated that it wants to ensure “this continues to work well and does not introduce barriers for professionals working in the UK”.

The UK Government is working with the devolved authorities on a number of ‘common frameworks’ to help coordinate policy development between UK nations where powers have returned from the EU and which intersect with devolved competence. This includes a Mutual Recognition of Professional Qualifications (MRPQ) framework. In an update covering 26 September to December 2020, the Cabinet Office said that discussions on the framework made progress during that period, but development timelines should be extended:

The MRPQ framework and the Services framework made good progress during this period, with focused work between BEIS and its devolved administration counterparts being undertaken to develop the frameworks. Agreement was reached between the UK Government and the devolved administrations that both MRPQ and Services should be developed over extended timelines to allow for more work to be done. All administrations remain committed to working to develop and agree these frameworks.⁹³

The Government has said that the bill’s provisions on sharing information between UK regulators in different parts of the UK complements measures in the United Kingdom Internal Market Act 2020 (UKIMA).⁹⁴ Part 3 of UKIMA contains provisions on the recognition of professional qualifications between different parts of the UK. For example, this includes an automatic recognition principle:

This part of the Act establishes that an individual who is qualified to practise a profession in one of the four UK nations will be automatically recognised in respect of the equivalent profession in another part of the UK, without needing to requalify. This principle will only apply to a profession when a new provision in respect of qualifications or experience is introduced, or when there is a change made to existing qualification or experience requirements for a profession which results in a limit to the access to a profession in a part of the UK.

⁹² Department for Business, Energy and Industrial Strategy, [The Recognition of Professional Qualifications and Regulation of Professions: Policy Statement](#), 12 May 2021, p 12.

⁹³ Cabinet Office, [The European Union \(Withdrawal\) Act and Common Frameworks: 26 September to 25 December 2020](#), 18 March 2021, para 1.25.

⁹⁴ Department for Business, Energy and Industrial Strategy, [‘New laws to ensure the UK has the skills it needs’](#), 12 May 2021.

This part of the Act also allows for the disapplication of the automatic recognition process, provided that an alternative process for recognition is instituted that complies with specific principles set out in the Act.⁹⁵

Certain professions were excluded from the scope of the automatic recognition system, including certain legal professions and school teaching.⁹⁶

⁹⁵ [Explanatory Notes to the United Kingdom Internal Market Act 2020](#), paras 49 and 50.

⁹⁶ *ibid*, paras 260 and 261.

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