



BRIEFING PAPER

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UK-EU Trade and Cooperation Agreement: professional qualifications

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1. Summary

Recognition of professional qualification (RPQ) is a system which allows professionals qualified in one country to practice in another, with limited administrative requirements and without having to requalify. This is particularly relevant for regulated professions, such as medics, architects, lawyers or statutory auditors who seek to establish in, or export their services to, another country.

From 1 January 2021, EU rules with regard to professional qualifications no longer apply to the United Kingdom, and mutual recognition of professional qualifications has ended. UK qualified workers wishing to work in the EU have to meet the qualification requirements of each individual EU Member State, i.e. the principle of “host-country rules” applies. The same is true for EU qualified workers seeking recognition of their qualifications in the UK: they have to comply with UK rules on professional qualifications.

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[The UK and EU Trade and Cooperation Agreement](#) (TCA) includes limited commitments on RPQ. The Agreement states that both sides will seek to establish more detailed reciprocal arrangements on a sector-by-sector basis in the future. The government has said that arrangements with EU Member States' regulators outside the TCA-provisions would be possible. It is not clear if this refers to bilateral or EU-wide arrangements.

The UK retains most of the former framework of recognition of professional qualifications acquired in the EEA and Switzerland as it was at the end of the transition period. The government may modify the framework in due course.

2. What has changed?

The UK's system for the recognition of professional qualifications was derived from EU law. It allowed UK professionals to have their qualifications recognised in the EEA and Switzerland, and vice versa, with minimal barriers and sometimes automatically.¹ See Box 1 below.

From 1 January 2021, EU rules with regard to professional qualifications no longer apply to the United Kingdom. Mutual recognition of professional qualifications has ended, and UK nationals are treated as third country nationals in the EU. When seeking recognition of their UK qualifications in the EU, UK nationals, irrespective of where these qualifications were acquired, now have to comply with the rules and regulations of each individual Member State. In the same way, EU professionals in the UK have to comply to the UK host-state law requirements. This is the result of the UK leaving the EU single market.²

Box 1: Background: mutual recognition of professional qualifications in the EU

In the EU, professionals can move to other Member States and practice their occupation or provide services. Several professions are covered by the system of [automatic mutual recognition](#), but for other professions there is a [general system](#) which enables workers to have their professional qualification recognised in another EU country.³

The [automatic mutual recognition](#) of professional qualifications applies to seven professions on the basis of minimum training requirements: doctors, nurses, midwives, dentists, pharmacists, architects, and veterinary surgeons.

Under the [general system](#) a host state:

- recognises a qualification when the applicant has full access to the same profession in the home country
- grants recognition to professionals whose profession is not regulated in the country of origin but who have worked full-time in that profession for one year in the past 10 years
- in both of the above situations, additional requirements such as an aptitude test may be imposed.

For some professions including lawyers, statutory auditors and some transport operators there is [sectoral legislation](#) that facilitates the mutual recognition.

The European Commission [Regulated Professionals Database](#) contains information on which professions are regulated, and licenses or authorisations that may be required to work in each profession.

¹ [Explanatory Memorandum](#) to the Professional Qualifications and Services (amendments and miscellaneous provisions) (EU exit) regulations 2020

² [European Commission Q&A](#), 24 December 2020

³ EU Directive on the recognition of professional qualifications ([Directive 2005/36/EC](#)) establishes the system of recognition of professional qualifications and provides for automatic recognition of seven sectoral professions.

3. The TCA: recognition of professional qualifications

The TCA introduces a mechanism whereby the EU and the UK may later agree on the recognition of certain professional qualifications. This could happen on a case-by-case basis and for specific professions.⁴ While no immediate and comprehensive solution for the mutual recognition of professional qualifications has been agreed, UK professionals are still able to seek recognition of their qualifications through the existing non-EU routes of the individual EU Member States.

The provisions on the recognition of professional qualifications are set out in [Part Two, Heading One of the TCA](#) covering trade arrangements, Title II [Services and investment], Chapter 5 [Regulatory framework]:

- Section 2 [Provisions of general application], Article 158 Professional Qualifications
- Section 7 [Legal services], Articles 192-195
- Annex 24 [Guidelines for arrangements on the recognition of professional qualifications].

The TCA sets up **a framework** for the mutual recognition of professional qualifications through the Partnership Council.⁵ UK and EU sectoral professional bodies can submit a Joint Recommendation for a Mutual Recognition Agreement (MRA) to the Partnership Council, which subsequently **may agree on future arrangements**. Such joint recommendations would have to demonstrate the economic value of the envisaged arrangements and the compatibility of the respective regimes.

The Government [Summary Explainer of the TCA](#) describes the provisions on the RPQ as follows:

Section 2 - Mutual recognition of professional qualifications

50. The UK and the EU have agreed a framework for the recognition of qualifications between the Parties which is based on the EU's recent FTA agreements. It makes improvements on those agreements, which are designed to make the system more flexible and easier for regulatory authorities to use.

51. This approach will allow the UK and its regulators to maintain standards of professional competence. From early 2021, the government will provide help and guidance to UK regulatory authorities and professional bodies to help them benefit from these provisions as well as other recognition paths.

52. The Agreement clarifies that the provisions on professional qualifications are without prejudice to alternative arrangements that the UK may agree with the EU, allowing for improved mechanisms to be agreed in future. Agreements will be negotiated on a profession-by-profession basis.⁶

On 4 February 2021, House of Lords EU Services Sub-Committee held an evidence session with government representatives about [future UK-EU relations: trade in services](#).⁷ Lord Grimstone, BEIS Minister of State, told the Committee that during the negotiations the UK had proposed a "comprehensive solution" to the EU for the RPQ that would have

⁴ [European Commission Q&A](#), 24 December 2020

⁵ The Partnership Council is a joint UK-EU body that supervises the operation of the TCA at a political level.

⁶ HM Government, [UK-EU Trade and Cooperation Agreement. Summary](#), updated 11 March 2021, paras 50-52

⁷ HL EU Services sub-committee, [Uncorrected oral evidence: Future UK-EU relations: trade in services](#), 4 February 2021

guaranteed “a pathway for assessment while ensuring regulatory autonomy, allowing both UK and EU regulators to reject candidates with insufficient experience,” but the EU had rejected that proposal. Lord Grimstone added:

Where I think the European Commission was coming from was that it did not want to enter into such an agreement, which would bind EU member states in a cross-cutting way. Its preference, the route it insisted on, was to see this as a regulator-led arrangement that could be flexible to the needs of different professions. I do not think it was an antipathy to these qualifications being mutually recognised. It was that it felt that the route to recognition should be led on a profession-by-profession basis by the regulators.⁸

Tim Courtney, Director of Trade and Investment Negotiations of the Services Directorate of BEIS told the Committee that from the government’s perspective the UK had gained several improvements above the “usual” EU approach. First, to increase the speed of the RPQ process, both Parties had agreed to streamline the requirements that professional bodies would have to meet when making a recommendation to the Partnership Council. These requirements are set out in Annex 24. Secondly, the framework could have enough **flexibility** in it to allow agreements for some professions be reached quicker and with more limited upfront assessment (see section 3.3 below).⁹

Legal services

The TCA contains specific provisions on legal services which allow UK lawyers to advise clients across the EU on UK and public international law using their home title. In return, UK will allow EU lawyers provide legal services in these areas in the UK. These provisions do not allow practicing EU law.¹⁰ These commitments on legal services go beyond other EU trade agreements and the Government has called them ground-breaking.¹¹ However, the Law Society of England and Wales has pointed out that some EU Member States have restrictions and exemptions in the TCA which could effectively cancel the general principle of home title practice in these jurisdictions.¹²

The TCA contains specific provisions which allow UK lawyers to advise EU clients on UK and international law.

3.1 Recommendations to the Partnership Council

Tim Courtney (BEIS) told the Lords EU Services Sub-Committee how the recommendations of national regulators to the Partnership Council would come to be:

In practice, the recommendations to the partnership council for a mutual recognition agreement will need to come from the 27 member states’ regulators and the UK counterpart, and they will have to make that recommendation before the negotiation can continue. As the Minister rightly says, in some cases there are harmonised minimum trading requirements across the EU, such as in architecture, which should make that process a little bit easier because the member-state regulators are dealing with the same sets of qualifications. In other areas, where there are very different approaches among the regulation of professions in different members states, it will be a bit more challenging. That is why we tried to build in a mechanism to allow less up-

⁸ Ibid, Q45

⁹ Ibid, Q45

¹⁰ [TCA](#), Title II Services and Investment, Section 7 Legal Services, Articles 192-195

¹¹ HL EU Services sub-committee, [Uncorrected oral evidence: Future UK-EU relations: trade in services](#), 4 February 2021, Q43

¹² Machaël Laurans, The Law Society, [Legal services in the EU-UK trade and cooperation agreement: an initial analysis](#), 29 December 2020
HL European Union Committee, [Beyond Brexit: trade in services, 23rd Report of Session 2019-21](#), HL Paper 248, 24 March 2021, paras 92-93

front assessment of all those different qualifications before making a recommendation.¹³

The Department for Business, Energy and Industrial Strategy has set up a unit that assists UK regulators and professional bodies negotiating arrangements with their EU partners.¹⁴

Some professional organisations have started working on future arrangements. For example, the UK Architects' Registration Board (ARB) and the Architects Council of Europe have established a joint task-force to continue preparations for a mutual recognition agreement.¹⁵ The Law Society of England and Wales is exploring with the Council of European Bars and Law Societies and individual EU bars and law societies if an agreement could be achieved.¹⁶

3.2 Are bilateral arrangements possible?

In October 2020, when the UK-EU negotiations were still ongoing, the House of Lords EU Committee wrote that the RPQ is "one area where a bad deal could be worse than no deal," referring to a bad deal as an agreement which would exclude bilateral UK - individual EU Member State arrangements in this area. The Committee urged the government to ensure that an agreement with the EU "explicitly allows for the conclusion of supplementary bilateral arrangements on the mutual recognition of professional qualifications, including at the Member State level."¹⁷

A footnote to Article 158 (1) of the TCA states that the Parties may conclude one or more agreements on the RPQ outside the provisions of this Article:

For greater certainty, this Article shall not be construed to prevent the negotiation and conclusion of one or more agreements between the Parties on the recognition of professional qualifications on conditions and requirements different from those provided for in this Article.

It is assumed that mutual recognition agreements can now be negotiated on either an EU-wide basis or bilaterally with Member States.¹⁸ The government has suggested that arrangements with EU Member States' authorities would be possible outside the TCA. Alex Chalk, Parliamentary Undersecretary of the Ministry of Justice, said in [answer to a PQ](#) that the flexibility built in the TCA could be used by sectors like legal services:

It is possible that some UK legal services regulatory authorities, professional bodies or associations might also seek to conclude other agreements with EU counterparts outside of this framework.¹⁹

Universities UK, an advocacy organisation of UK universities, writes in its initial assessment of the TCA, [UK-EU Trade and Cooperation Agreement: implications for universities](#), that the RPQ provisions of the Agreement "[do] not preclude professional bodies or associations in the UK and across Europe to seek other arrangements on a country-to-country bilateral basis." Also the [Council of European Architects thinks it's possible](#) that

¹³ HL EU Services sub-committee, [Uncorrected oral evidence: Future UK-EU relations: trade in services](#), 4 February 2021, Q45

¹⁴ PQ [179330](#), answered on 15 April 2021

¹⁵ Architects Council of Europe, [EU-UK Trade & Cooperation Agreement. Architecture of the TCA and interim process for the recognition for holders of EEA / Swiss qualifications](#), 14 January 2021

¹⁶ Machaël Laurans, The Law Society of England and Wales, [Legal services in the EU-UK trade and cooperation agreement: an initial analysis](#), 29 December 2020

¹⁷ HL European Union Committee, [The future UK-EU relationship on professional and business services](#), 13th Report of Session 2019-21, HL 143, 13 October 2020

¹⁸ HL European Union Committee, [Beyond Brexit: trade in services, 23rd Report of Session 2019-21](#), HL Paper 248, 24 March 2021, para131

¹⁹ [PQ 133897](#), answered on 14 January 2021

“a myriad of bi-lateral agreements” may emerge between UK regulatory/professional bodies and their EU counterparts.

Legal experts have not come to an unequivocal conclusion on whether the TCA would actually allow for bilateral deals between the UK and EU Member States’ regulators. For example, Professor Catherine Barnard of Cambridge University has pointed out that it is not evident from the wording of Article 158 that a bilateral agreement or arrangement, that would bypass the EU as a Party to the TCA, would be possible: one could argue both ways.²⁰

4. Commentary

The UK Trade Policy Observatory (Sussex University) has concluded that the TCA is disappointing with regard to the RPQ and can be seen as an “incomplete agreement.” In their briefing [Taking Stock of the UK-EU Trade and Cooperation Agreement: Trade in Services and Digital Trade](#), Ingo Borchert and Minako Morita-Jaeger state:

The TCA leaves open the possibility of future agreements on the mutual recognition of qualifications with individual member states; however, this process is optional and on a profession-by-profession basis, and is therefore resource-intensive, uncertain and piece-meal. The lack of mutual recognition of professional qualification may have a significant impact on the ability of both manufacturing and services firms to offer their services in the EU market. It may also affect the ability of UK firms to source professional services from the EU or EU residents.²¹

Commentators have compared the TCA provisions to other EU free trade agreements, such as EU-Canada [CETA](#) (Chapter 11 and Annex 11-A: Guideline for MRA) and point out their limited success so far. Machaël Laurans of the Law Society of England and Wales notes:

The UK government was seeking a path to requalification for all regulated professions, including the legal professions, but the EU successfully insisted on the EU-Canada CETA model, with competent authorities and professional bodies invited to submit MRPQ/MRA proposals for approval by the new Partnership Council. This institutional setup is yet to deliver a single MRA between the EU and Canada more than three years after it came into force.²²

House of Lords EU Committee inquiry: trade in services

Witnesses of the House of Lords EU Committee inquiry on trade in services have pointed out that the timescales for reaching mutual recognition agreements under the TCA are unclear and have urged professional bodies to start discussions as soon as possible.²³ The Committee report [Beyond Brexit: trade in services](#) concludes:

135. The absence in the TCA of mutual recognition of professional qualifications is disappointing and could have an impact on many sectors. Instead, the TCA replicates the CETA model, where not a single mutual recognition agreement has been reached in over three years since its entry into force. The likely timelines for achieving recognition on a profession-by-profession basis are thus unclear.

²⁰ Cambridge University Centre for European Legal Studies (CELS), [Rapid Response Seminar on the EU-UK Trade and Cooperation Agreement \(TCA\) and the EU \(Future Relations\) Act](#); from 1h 48 minutes, 14 January 2021

²¹ Ingo Borchert, Minako Morita-Jaeger, [Taking Stock of the UK-EU Trade and Cooperation Agreement: Trade in Services and Digital Trade](#), UKTPO, Briefing Paper 53 – January 2021

²² Machaël Laurans, The Law Society, [Legal services in the EU-UK trade and cooperation agreement: an initial analysis](#), 29 December 2020

²³ HL European Union Committee, [Beyond Brexit: trade in services, 23rd Report of Session 2019-21](#), HL Paper 248, 24 March 2021, paras 128-130

136. UK regulators and professional bodies should negotiate and conclude EU-wide and bilateral mutual recognition agreements as soon as possible. The Government has said that it will support this process. We would welcome updates on how and when this support is being provided.

137. The TCA leaves open the possibility of a new agreement on mutual recognition of professional qualifications in the future. This would be a major improvement on a patchwork of sector-specific agreements, and we urge the Government to seek such an agreement with the EU in the medium term.²⁴

5. Existing decisions on professional qualifications

The decisions on the recognition of UK qualifications in EU Member States and EU qualifications in the UK, that have been made before 1 January 2021, or are pending, are not affected by the TCA. Those rights are protected under the Withdrawal Agreement.²⁵

This means that holders of UK qualifications that have been recognised before the end of the transition period, who live or work in the EU, can continue to practice.²⁶ The applications for recognition made after 1 January 2021 are subject to the TCA.

People who live or work in the EU with UK qualifications that have been recognised before the end of the transition period can continue to practice.

6. Current UK regulation and future divergence

Government guidance for regulatory bodies, [Recognition of professional qualifications](#), explains that a new temporary general system retains most of the former framework of recognition of professional qualifications acquired in the EEA and Switzerland as it was at the end of the transition period. This is done to help “meet workforce demand, as well as provide clarity and certainty to businesses and professionals working in the EU”.

Specifically, the UK is retaining a general system where UK regulators will be required to recognise EEA and Swiss qualifications which are of an equivalent standard to UK qualifications in scope, content and level. UK regulatory bodies are obligated to consider applications for recognition from holders of EEA and Swiss professional qualifications, but are only obligated to grant recognition to qualifications that are comparable to UK qualification requirements and standards in scope, level and content.²⁷

Provisions for Swiss nationals

Under the Swiss Citizens’ Rights Agreement, the Government has extended transitional arrangements for Swiss nationals who have started obtaining their qualifications in the UK

²⁴ HL European Union Committee, [Beyond Brexit: trade in services, 23rd Report of Session 2019-21](#), HL Paper 248, 24 March 2021, paras 135-137

²⁵ [HM Government, Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 19 October 2019](#), Articles 27-29

²⁶ European Commission, [Notice to stakeholders Withdrawal of the United Kingdom and EU rules in the field of regulated professions and the recognition of professional qualifications](#), 21 June 2018; BEIS, [Guidance: Recognition of professional qualifications: guidance for regulatory bodies](#), 23 December 2020, Section 5

²⁷ See the [Recognition of Professional Qualifications \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) and Explanatory memorandum, [The Recognition of Professional Qualifications \(Amendment etc.\) \(EU Exit\) Regulations 2019](#), paras 2.9, 2.10

before the end of the transition period. They can complete the recognition process up until **1 January 2025**. Swiss service providers with pre-existing contracts are allowed to continue providing their services in the UK up until **1 January 2026**. There are reciprocal arrangements for UK nationals and UK service providers established in Switzerland.²⁸

Future changes

The government [stated](#) in December 2020 that it “will make appropriate modifications” to the temporary system “in due course”, led by the findings of the consultation [The Recognition of Professional Qualifications and Regulation of Professions](#), which took place in September and October 2020.

On 12 May 2021, [the government introduced](#) the [Professional Qualifications Bill \(HL Bill 2\)](#) to Parliament. The Bill creates a new framework for the recognition of professional qualifications gained outside the UK and proposes to reform regulators’ practices. The Bill will also end the interim system for professional qualifications, derived from EU law. The Bill, its accompanying [Explanatory Notes](#) and details of its passage through Parliament are available from [the Bill's pages on the Parliament website](#).

²⁸ [Guidance: Recognition of professional qualifications: guidance for regulatory bodies](#), 23 December 2020, Section 5.5