

## Research Briefing

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# Professional Qualifications Bill [HL] 2021-22



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## Summary

The Professional Qualifications Bill [HL] 2021-22 was announced in the Queen's Speech on 11 May 2021 and first introduced in the House of Lords. Consideration of the Bill by the House of Commons started on 18 November 2021.

This briefing provides background to the Bill, summarises the Lords stages, and the Commons proceedings up to the sitting of the Public Bill Committee on 18 January 2022. The remaining stages are scheduled for 1 March 2022.

### What does the Bill do?

The Bill would set out a new system for how professional qualifications gained abroad are recognised in the UK. It would also seek to allow regulators in the UK and overseas to mutually recognise qualifications where they cannot do that now.

In the UK, [more than 200 professions are regulated by law](#). UK regulators of professions such as nursing, architecture, or veterinary, have established certain processes to recognise credentials gained overseas.

These rules help determine whether qualifications acquired abroad include an adequate level of skill and training for the professionals to practice in the UK, and sometimes whether they can use a professional title. The UK's current system to recognise professional qualifications comes from EU law.

### A new system

The Government intends to create a new system which would mean that regardless of where the qualifications have been gained, they have to meet the same requirements to be recognised in the UK. The current system inherently treats qualifications gained in the EU and EEA countries, Norway, Iceland, and Liechtenstein differently.

The Bill would create powers to allow regulators of professions in the UK to enter into 'regulator recognition agreements' with their international counterparts. The Government states this will "[strengthen the UK's ability to negotiate and deliver ambitious \[trade\] deals](#)", where they relate to professional qualifications, and help UK professionals enter new markets abroad.

The regulation of some professions, including teaching, is devolved. The Bill provides for the cooperation of regulators across the four nations of the UK by creating a new system for information sharing. It also establishes an Assistance Centre for individuals who seek to practice in the UK or abroad.

Finally, the Bill amends the Architects Act 1997, creating a new recognition system for architects.

## Reactions

The first reactions to the Bill were mixed. Several regulators, including [the Architects Registration Board](#), the [Nursing and Midwifery Council](#), and [the Law Society](#) generally welcomed the Bill and the possibilities it would open to work with international partners.

Regulators of healthcare professions raised concerns about the Bill's potential to allow professional standards to be “watered down”, with implications for patient safety. Some Members of the House of Lords questioned [whether the Bill was even necessary](#).

## Changes in the Lords

To address regulator concerns, the Lords have accepted government proposals to add two new clauses to the original Bill:

- to protect the autonomy of regulators, and
- to require that regulators are consulted before new regulations are made in areas of their existing powers.

## Devolved aspects

The Government is seeking legislative consent for aspects of the Bill that fall within devolved areas. On recommendation of the respective governments, Senedd Cymru and the Scottish Parliament are withholding their consent and calling for further amendments to the Bill. The decision of the Northern Ireland Assembly is pending in absence of a fully functioning Northern Ireland Executive. Discussions between the UK Government and the devolved administrations continue.

## Commons stages

At second reading and in committee, MPs debated regulator autonomy and the need for further assurances to devolved administrations about the protection of the areas of devolved competence.

Other issues included the Bill's contribution to addressing workforce shortages, and government support to regulators negotiating mutual recognition agreements under [the UK and EU Trade and Cooperation Agreement](#) (TCA).

The Public Bill Committee did not significantly amend the Bill.

An issue expected to return at the report stage is the duty for the Government to consult with or secure the consent of devolved administrations before making regulations in areas of devolved responsibility.

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# 1 Background

The Professional Qualifications Bill was announced in the Queen's Speech on 11 May 2021. It was first introduced in the House of Lords and completed its Lords stages on 17 November. Second reading of the Bill in the House of Commons took place on 15 December, and committee stage was completed on 18 January 2022.

The Bill, consisting of 21 clauses, would create a new framework for the recognition of professional qualifications gained outside the UK. It would also seek to allow regulators in the UK and overseas to mutually recognise qualifications where they cannot do that now.

The Bill would create a number of regulation-making powers designed to implement the new framework. This framework 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:

- enable government to implement international agreements on the recognition of professional qualifications
- create powers to authorise regulators in the UK to enter into recognition agreements with regulators overseas
- set up an Assistance Centre – a single point of information for individuals seeking to practice a regulated profession in the UK and abroad
- make provision related to the sharing of information between regulators in the UK and internationally, and
- amend the Architects Act 1997.

## More information

[The Bill](#) (PDF), [Explanatory Notes](#) (PDF), the [Impact Assessment](#), the [Impact Assessment supplementary note](#), and other relevant documents are available on the [Bill page of Parliament's website](#).

Further Background to the Bill is in the House of [Lords Library briefing](#) for Lords stages.<sup>1</sup>

The Department for Business, Energy and Industrial Strategy (BEIS) has published a [Delegated Power Memorandum](#) and a [Supplementary Delegated Power Memorandum](#). The House of Lords Delegated Powers and Regulatory

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<sup>1</sup> House of Lords Library, [Professional Qualifications Bill \[HL\]: Briefing for Lords Stages](#)

Reform Committee published its [2nd Report of the DPRRC](#) in May 2021 and [3rd Report of the DPRRC](#) in June 2021.

In November, the Government published [several factsheets on the Bill](#), clarifying the meaning of “[unmet demand](#)” for the services of professions, [Regulator recognition agreements](#), [Information publication requirements](#), [Information sharing](#), and [to whom the Bill applies](#).<sup>2</sup>

The clause numbers used in this briefing are the same as those in Professional Qualifications Bill [HL] (Bill 231) 2021-2021, [as amended in the Public Bill Committee \(PDF\)](#).

## Call for evidence

A public consultation preceded the Professional Qualifications Bill. Intending to end the post-transition interim regime, the Government held a consultation on the recognition of professional qualifications and regulation of professions from August till October 2020. To inform the UK’s future approach, [the call for evidence](#) sought views on:

- how the UK recognises professional qualifications from other countries
- the experience of professionals moving and operating within the UK internal market
- how professions are regulated in the UK, both professions that are regulated by law and those that are voluntarily regulated.<sup>3</sup>

The Government published its response to the consultation in May 2021.<sup>4</sup>

## 1.1

## Territorial application and legislative consent

The Professional Qualifications Bill extends to the whole of the UK. Amendments made by the Bill have the same territorial extent as the legislation they are amending.<sup>5</sup>

The Government is seeking legislative consent for aspects of the Bill, that fall within devolved competence. An [annex to the explanatory notes](#) has an overview of the relevant provisions.

Following recommendations of the Welsh Government, Senedd Cymru has decided not to approve a Legislative Consent Motion relating to this Bill.<sup>6</sup> In

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<sup>2</sup> BEIS, [Professional Qualifications Bill 2021: factsheets](#), 3 November 2021

<sup>3</sup> BEIS, [The recognition of professional qualifications and regulation of professions: call for evidence](#) (390KB, PDF), 25 August 2020

<sup>4</sup> BEIS, [Recognition of professional qualifications and regulation of professions: call for evidence summary of responses](#), 12 May 2021

<sup>5</sup> Clause 19; see BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), 12 May 2021, para 16

<sup>6</sup> Senedd Cymru, [Legislative Consent: Professional Qualifications Bill](#), accessed 16 February 2022

its Legislative Consent Memorandum, the Welsh Government gave two main reasons for withholding consent:

- The breadth of concurrent regulation-making powers in areas falling within devolved competence.<sup>7</sup>
- Restrictions on the exercise of the regulation-making powers conferred on the Welsh Ministers.<sup>8</sup>

In December 2021, in a supplementary legislative consent memorandum, the Welsh Government called for further amendments to the Bill in respect of the concurrent powers.<sup>9</sup>

The Scottish Government, while recognising that many aspects of the Bill are not contentious, is similarly concerned about the exercise of concurrent powers under the Bill.<sup>10</sup> Following its recommendation, the Scottish Parliament [has also withheld its consent](#) and is calling for the Bill to be amended to require UK Ministers to obtain the consent of Scottish Ministers before acting in areas of devolved competence.<sup>11</sup>

Northern Ireland has not yet published information on the Legislative Consent Motion.<sup>12</sup> After the resignation of the First Minister on 3 February 2022, Executive ministers remaining in post, cannot take any new or significant decisions.<sup>13</sup>

Discussions between the UK Government and the devolved administrations continue.<sup>14</sup>

More information on the devolution aspects of the Bill is in section 3 of the House of [Lords Library briefing](#) on the Bill for Lords stages.<sup>15</sup>

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<sup>7</sup> [Concurrent powers](#) are powers that can be exercised by the devolved Ministers or UK Ministers to make secondary legislation in relation to the devolved nations.

<sup>8</sup> Welsh Government, [Legislative Consent Memorandum. Professional Qualifications Bill \(PDF\)](#), 17 June 2021, paras 32-35

<sup>9</sup> Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No 2\) Professional Qualifications Bill \(PDF\)](#), 6 December 2021

<sup>10</sup> Scottish Government, [Legislative Consent Memorandum. Professional Qualifications Bill](#), 12 July 2021, para 32

<sup>11</sup> Scottish Government, [Supplementary Legislative Consent Memorandum. Professional Qualifications Bill \(PDF\)](#), 27 January 2022, para 20

<sup>12</sup> [NIassembly.gov.uk](#), [Legislative Consent Motions](#), accessed 16 February 2022

<sup>13</sup> [Northern Ireland: Key issues](#), Commons Library briefing CBP-9416, 22 February 2022, para 4.1

<sup>14</sup> See, for example, [Letter](#) (PDF) of Jeremy Miles AS/MS, Minister for Education and Welsh Language to Huw Irranca-Davies MS Chair, Legislation, Justice and Constitution Committee, Senedd Cymru, 10 February 2022

<sup>15</sup> House of Lords Library, [Professional Qualifications Bill \[HL\]: Briefing for Lords Stages](#), section 3

## 1.2

# Overview of regulated professions

Regulated professions are ones where there are restrictions to pursuing a profession, or legal restrictions for using a professional title, such as for doctors.<sup>16</sup>

Article 18(3) of the Bill defines a regulated profession as a profession regulated by law in the UK, or a part of the UK. A person can only practice a regulated profession, use a professional title, such as ‘architect’, or be registered, licensed or otherwise authorised, if they hold the relevant qualifications or experience, or meet alternative conditions specified in legislation.

Professions are usually regulated to protect the public interest, such as for public health and safety. Regulation helps maintain professional standards and facilitates international trade by allowing professionals to practice in other countries.

The framework proposed by the Bill would cover 205 professions and 81 associated regulators. The Department for Business, Energy and Industrial Strategy (BEIS) has [published a list of professions and regulators covered by the Bill](#). New professions and regulators may be added to the list.<sup>17</sup>

According to the Government’s first impact assessment, another 90 regulators responsible for 140 professions would not be in the scope of the Bill’s framework, but are covered by the interim system. These include chartered bodies and professions. Chartered titles, such as a chartered insurance practitioner, accountant or engineer, are, in general, not regulated by statute, but have a form of self-regulation. In Government’s view, there are no statutory impediments to the chartered bodies having international recognition routes which they deem appropriate.<sup>18</sup>

The Bill’s Impact assessment notes that there may be other professions, without proper powers to provide recognition routes when the interim system has ceased to apply.<sup>19</sup> In the Lords committee, the Government said that the professions list would be kept updated to add new professions if required, but others, such as voluntarily regulated professions, “do not need any help under the powers of this Bill”. It said that professional bodies for those professions are autonomous, have unilateral recognition routes, and can decide the content of recognition agreements with their overseas counterparts.<sup>20</sup>

Most of the regulators included in the framework already have the power to recognise foreign qualifications. During the Bill’s consideration in the House

<sup>16</sup> BEIS, [UK regulated professions and their regulators](#), 14 October 2021

<sup>17</sup> BEIS, [UK regulated professions and their regulators](#), 14 October 2021

<sup>18</sup> [HL Deb 22 June 2021 c152](#)

<sup>19</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 68

<sup>20</sup> [HL Deb 22 June 2021 c208](#)

of Lords, questions have been raised about whether the provisions of the Bill, especially given their breadth, are even necessary.<sup>21</sup> Of the 18 regulators initially in scope, only four do not have existing routes to recognition, meaning that overseas qualified professionals may have to requalify with a UK qualification.<sup>22</sup>

## 1.3 Regulation of medical professionals

Within healthcare, professional regulation exists in different forms, from employer-led to statutory and with variations in structure and processes, but with a common aim to ensure public safety.<sup>23</sup>

The Bill applies to professionals subject to statutory regulation only. BEIS has [published a list of professions and regulators covered by the Bill](#) (the list may be updated).<sup>24</sup> Nine of the regulatory bodies listed are within the health sector.

The roles, functions and powers of the nine regulators vary, but they all perform the following functions:

- Set standards of competence and conduct that health and care professionals must meet in order to be registered and practise.
- Check the quality of education and training courses to make sure they give students the skills and knowledge to practise safely and competently.
- Maintain a register that everyone can search.
- Investigate complaints about people on their register and decide if they should be allowed to continue to practise or should be struck off the register - either because of problems with their conduct or their competence.<sup>25</sup>

Each of the regulatory bodies is governed by a separate piece of legislation. This legislation has been amended over time by orders made under [section 60 of the Health Act 1999](#) and a range of Acts of Parliament.<sup>26</sup>

The professional regulators within the health sector are as follows:

1. [General Chiropractic Council](#) (GCC) regulates the chiropractic profession in the UK. The governing legislation is the [Chiropractors Act 1994](#).
2. [General Dental Council](#) (GDC) regulates dental professionals. This includes dentists, dental nurses, dental technicians, clinical dental

<sup>21</sup> See e.g. [HL Deb 14 June 2021 c1691](#)

<sup>22</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 64

<sup>23</sup> NHS Employers, [Professional regulation](#), 4 June 2021

<sup>24</sup> BEIS, [UK regulated professions and their regulators](#), 14 October 2021

<sup>25</sup> [Professional regulation in health and social care](#), Commons Library briefing CBP-8094

<sup>26</sup> Department of Health, [Regulation of health care professionals and regulation of social care professionals in England: The Government's response to Law Commission report 345, Scottish Law Commission report 237 and Northern Ireland Law Commission report 18](#), January 2015, p5

- technicians, dental hygienists, dental therapists and orthodontic therapists in the UK. The governing legislation is the [Dentists Act 1984](#).
3. [General Medical Council](#) (GMC) regulates doctors in the UK. The governing legislation is the [Medical Act 1983](#).
  4. [General Optical Council](#) (GOC) regulates the optical professions in the UK. The governing legislation is the [Opticians Act 1989](#).
  5. [General Osteopathic Council](#) (GOSC) regulates the practice of osteopathy in the UK. The governing legislation is the [Osteopaths Act 1993](#).
  6. [General Pharmaceutical Council](#) (GPhC) regulates pharmacists, pharmacy technicians and pharmacy premises in England, Wales and Scotland. The governing legislation is the [Pharmacy Order 2010](#).
  7. [Health and Care Professions Council](#) (HCPC) regulates health and care professions in the UK, including: arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dietitians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists/orthotists, radiographers and speech and language therapists. The governing legislation is the [Health Professions Order 2001](#).
  8. [Nursing and Midwifery Council](#) (NMC) regulates nurses, midwives and nursing associates in the UK. The governing legislation is the [Nursing and Midwifery Order 2001](#).
  9. [Pharmaceutical Society of Northern Ireland](#) (PSNI) is the regulatory and professional body for pharmacists in Northern Ireland. The governing legislation is the [National Health Service Reform and Health Care Professions Act 2002](#).

The work of these professional bodies is regulated by the [Professional Standards Authority for Health and Social Care](#) (previously known as the Council for Healthcare Regulatory Excellence). The authority aims to protect the health and wellbeing of patients and the public by scrutinising and overseeing the work of regulatory bodies.<sup>27</sup>

The UK system of professional regulation is statutory, but independent from government. As such, professional regulators receive no government funding and rely on fees paid by registrants.<sup>28</sup>

The UK Parliament is responsible for the regulation of health and care professions in England and Wales.<sup>29</sup> Regulation of health and care professionals is a devolved matter in Northern Ireland.<sup>30</sup>

Regulation is devolved to Scotland for health professionals which entered regulation after the passing of the [Scotland Act 1998](#), such as dental nurses and pharmacy technicians.<sup>31</sup>

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<sup>27</sup> Health and Safety Executive, [Who regulates health and social care](#), Accessed on 18 November 2021

<sup>28</sup> [Professional regulation in health and social care](#), Commons Library briefing CBP-8094

<sup>29</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021

<sup>30</sup> [Ibid.](#)

<sup>31</sup> [Ibid.](#)

## Reform of regulation of healthcare professionals

In 2014, the Law Commissions of England and Wales, Scotland and Northern Ireland published a [comprehensive review of the legal framework for professional regulation in the UK](#).<sup>32</sup> The recommended reforms aimed to consolidate and simplify the existing legal framework and introduce greater consistency across the regulatory bodies.<sup>33</sup>

In 2017, the UK Government and devolved administrations consulted on [options for reforming the regulation of healthcare professionals in the UK](#).<sup>34</sup> In July 2019 the Government published its [response to this consultation](#).<sup>35</sup>

The Department of Health and Social Care (DHSC) subsequently ran a [consultation](#) from 24 March to 16 June 2021. The consultation sought views on policy proposals to reform the regulation of healthcare professionals and to introduce statutory regulation of physician and anaesthesia associates.<sup>36</sup>

The DHSC say current legislation is “too detailed” and “can inhibit changes needed to respond quickly to new circumstances”.<sup>37</sup> It is recommended that all regulators are provided with a similar governance and operating framework. This would include powers for regulators to set more of their own operating procedures through rules or guidance that do not require the approval of Parliament or the Privy Council. This would include registration processes and would provide all regulators with the same powers to carry out their registration function and allow registration processes to be adapted.<sup>38</sup> The DHSC is currently analysing the consultation feedback.<sup>39</sup>

## Registration of EEA & Swiss healthcare professionals

The UK’s system for the recognition of professional qualifications was derived from EU law, namely the Mutual Recognition of Professional Qualifications Directive ([Directive 2005/36/EC](#)). It allowed UK professionals to have their qualifications recognised in the EEA and Switzerland, and vice versa, with minimal barriers.<sup>40</sup>

Under the Directive, there are seven professions where standards are ‘harmonised’ which means qualifications must comply with minimum agreed standards. Where these are met, qualifications are automatically recognised by regulators throughout the EU, EEA EFTA states and Switzerland. This leads to entry on the relevant professional register.

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<sup>32</sup> Law Commission, [Regulation of Health and Social Care Professionals](#)

<sup>33</sup> [Ibid.](#)

<sup>34</sup> DHSC, [Promoting professionalism, reforming regulation](#), Last updated 15 July 2019

<sup>35</sup> [Ibid.](#)

<sup>36</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021

<sup>37</sup> [Ibid.](#), p6

<sup>38</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021, p36

<sup>39</sup> [Ibid.](#)

<sup>40</sup> DHSC, [Explanatory Memorandum to the European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations, 2019](#)

The qualifications listed as meeting the requirements for automatic recognition in EU law are set out in [Annex V of Directive 2005/36/EC](#).

Five of the seven harmonised professions are health professions:

- Doctors
- Nurses
- Midwives
- Pharmacists
- Dentists

The EU directive ceased to apply to the UK from 30 December 2020. In preparation for the end of the transition period, the Government legislated ([SI 2019/593](#), [SI2019/585](#), [SI2020/1394](#)) for a system for the recognition of EEA and Swiss qualifications listed in Annex V that is “similar” for a limited time.<sup>41</sup>

The legislation “guarantees that qualifications previously automatically recognised with minimal barriers by UK regulators of healthcare professionals will be recognised under a near-automatic system.”<sup>42</sup> This applies to qualifications awarded from 1 January 2021. The Withdrawal Agreement provided for EU qualifications recognised in the UK before the end of the transition period to continue to be recognised thereafter.<sup>43</sup>

The [Explanatory Memorandum to The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) says UK regulators are obliged to recognise such qualifications as being sufficient for practising in the UK, with the qualifications listed in Annex V of the Directive deemed “acceptable overseas qualifications”.<sup>44</sup>

Subsequently, [The European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) provided for more generous arrangements concerning recognition of professional qualifications of health and care professionals in line with the EEA EFTA Separation Agreement and the Swiss Citizens’ Rights Agreement. For example, the Swiss Citizens’ Rights Agreement includes provisions to allow a 4-year period for the recognition of professional qualifications following the end of the transition period compared to 2 years for qualifications awarded in the EEA.

The Agreements are reciprocal and therefore apply to the recognition of UK health and care qualifications also.<sup>45</sup> In contrast, in the EU, the recognition of

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<sup>41</sup> [Ibid.](#)

<sup>42</sup> DHSC, [EEA-qualified and Swiss healthcare professionals practising in the UK](#), 31 December 2020

<sup>43</sup> 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](#) (2.3MB, PDF), 19 October 2019, Articles 27-29

<sup>44</sup> DHSC, [Explanatory Memorandum to the European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations](#), 2019

<sup>45</sup> HL Deb 16 November 2020 [[European Qualifications \(Health and Social Care Professions\) \(EFTA States\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)] c1292

UK qualifications awarded following the UK's departure from the EU is currently determined by individual EU member states.<sup>46</sup>

The transitional “near automatic” recognition of professional qualifications only applies to healthcare professions listed in [Annex V of Directive 2005/36/EC](#).

EEA-awarded healthcare qualifications previously in scope of the general system of recognition (not automatic recognition) are now considered by UK regulatory bodies under their recognition routes for international applicants.<sup>47</sup> This is more costly and can involve additional tests. For example, the [Nursing and Midwifery Council](#) (NMC) explain:

If you're a nurse responsible for general care (known as an adult nurse in the UK) or midwife who has a qualification that meets the EU requirements for automatic recognition, you'll be able to have your qualification recognised by us, and you won't need to take a Test of Competence.

The total cost for application and registration of those with a qualification that meets our requirements is £293 (an assessment fee of £140 and initial registration fee of £153).

As EU specialist nurse qualifications - such as children's or mental health nursing - have never held automatic recognition under EU law, new applicants holding these EU qualifications will need to take a Test of Competence from 1 January 2021.

The total cost for application and registration is £1,170. This cost could be higher if you need to resit tests.<sup>48</sup>

The Government published guidance '[EEA-qualified and Swiss healthcare professionals practising in the UK from 1 January 2021](#)' which provides further detail.

## Registration of international healthcare professionals

In 2019/20, 43% of new joiners to the General Medical Council (GMC) register and 31% of new NMC registrants were internationally qualified.<sup>49</sup>

All UK healthcare professional regulators have processes in place to register international healthcare professionals, except the PSNI (international applications to PSNI are processed by the GPhC). The detailed arrangements are set out in primary and secondary legislation. For example, Part III of the

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<sup>46</sup> DHSC, [Explanatory Memorandum to the European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations](#), 2019  
[UK-EU Trade and Cooperation Agreement: professional qualifications](#), Commons Library briefing CBP-9172

<sup>47</sup> See section 2.1 below

<sup>48</sup> NMC, [What Brexit means for nursing and midwifery](#), Last updated 3 September 2021

<sup>49</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021

[Medical Act 1983](#) details registration requirements for doctors qualifying overseas.

The [Impact Assessment for the Bill](#) notes that healthcare regulators could adapt their existing application routes for non-EEA/Swiss applicants to consider applications from EEA and Swiss professionals. Alternatively, regulators “may wish to retain and expand the existing arrangements for EEA and Swiss applicants to professional qualifications from all countries under the new framework.”<sup>50</sup>

The DHSC consultation document ‘[Regulating healthcare professionals, protecting the public](#)’ (24 March 2021) proposes removing detail on international registration requirements from legislation.<sup>51</sup> Current requirements are thought to be overly complex:

In some instances, the legislative requirements for the registration of internationally qualified applicants are bureaucratic and may deter safe and competent overseas professionals from seeking to practise in the UK. For example, internationally qualified specialist doctors, including GPs, are required to submit large volumes of documentary evidence to demonstrate that their qualification and training is equivalent to that delivered in the UK.

Some of the legislative requirements make it difficult for regulators to improve their registration processes for internationally qualified professionals. For example, the process for international dentists to register with the GDC is set in legislation and requires the majority of applicants to sit an Overseas Registration Exam with the exam fee specified in legislation. This is set out in [The General Dental Council \(Overseas Registration Examination Regulations\) Order of Council 2007](#).

Removing this level of detail on international registration requirements from legislation and allowing regulators to set these arrangements out in rules will ensure that they have the flexibility to develop effective and streamlined international registration processes which assure public protection in a more proportionate way.<sup>52</sup>

## 1.4 Regulation of veterinary qualifications

Under the [Veterinary Surgeons Act 1966](#) the [Royal College of Veterinary Surgeons](#) (RCVS) is responsible for registering veterinary surgeons allowed to practice in the UK. Under the Act the RCVS is the competent authority for registering veterinary surgeons with both UK and non-UK qualifications.<sup>53</sup>

Those non-UK veterinary surgeon whose qualification is from [Australia](#), [Canada](#), [listed European countries](#), [South Africa and the United States](#) and who have qualifying degree from a listed institution simply register with the

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<sup>50</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, p18

<sup>51</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021, p57

<sup>52</sup> DHSC, [Regulating healthcare professionals, protecting the public](#), 24 March 2021, p57

<sup>53</sup> RCVS, [Applications – Veterinary Surgeons](#) [website accessed 18 November 2021]

RCVS. Veterinary surgeons who are not from those countries or from a non-listed institution need to sit and pass the [Statutory Membership Examination](#) in order to be accepted onto the register. The examination is held once a year.

Before the UK left the EU, under the [Mutual Recognition of Professional Qualifications Directive](#), EEA and Swiss nationals with a veterinary degree were automatically able to register with the RCVS.

In advance of Brexit, and the end of mutual recognition with the EU, the [Veterinary Surgeons and Animal Welfare \(Amendment\) \(EU Exit\) Regulations 2019](#) were introduced. Lord Gardiner of Kimble (non-affiliated, previously Con and Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs) set out the purpose of the regulations as to “ensure the operability and consistency of the system for registering EEA and Swiss qualified veterinary surgeons after we leave”.<sup>54</sup> He stated:

When the UK leaves, EEA and Swiss qualified persons who wish to register to practise in the UK will still be able to do so; however, they will have to follow the same process as those who have qualified elsewhere.

That process is currently set out in Section 6 of the Veterinary Surgeons Act, and requires that an applicant satisfy the Royal College of Veterinary Surgeons that they have, “the requisite knowledge and skill”, to practise in the United Kingdom.<sup>55</sup>

During the debate on the regulations it was highlighted that 13% of non-UK EU vets on the Register were from institutions not accredited by European Association of Establishments for Veterinary Education (EAEVE), which would be a requirement by the RCVS, and would therefore have to sit the Statutory Membership Examination to practice in the UK.<sup>56</sup>

In addition to the above provisions, and in advance of the end of the transition period, RCVS reached a [bilateral Mutual Qualification Recognition Agreement](#) with the Veterinary Council of Ireland in December 2020.<sup>57</sup>

## 1.5

## Regulation of teachers

Each UK nation has its own system for training and regulating school teachers, and in some cases, the teaching registration and regulatory body also regulates other education workforce professionals.

- In **England**, the [Teaching Regulation Agency](#) (TRA) awards Qualified Teacher Status (QTS) and maintains a database of qualified teachers, as

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<sup>54</sup> [HL Deb 6 February 2019 c1588](#)

<sup>55</sup> [HL Deb 6 February 2019 c1588](#)

<sup>56</sup> [HL Deb 6 February 2019 c1591](#)

<sup>57</sup> RCVS, [Joint statement: RCVS and VCI reaffirm mutual recognition of vet degrees post-transition period](#),<sup>11</sup> December 2020

well as regulating the teaching profession. Teachers in maintained schools require QTS; academies and free schools don't usually have to require teaching staff to hold QTS, but in practice, many do.

- In **Wales**, the [Education Workforce Council](#) administers the award of Qualified Teacher Status (QTS) and also registers and regulates a wide variety of other education and allied professionals, including classroom assistants and further education teaching staff. QTS is a requirement for teaching in Wales's maintained schools and non-maintained special schools. There are no academies or free schools in Wales.
- In **Scotland**, the [General Teaching Council for Scotland](#) (GTC Scotland) requires all teachers to register in order to teach in Scotland's schools. College lecturers are also registered by the GTCS.
- In **Northern Ireland**, registration with the [General Teaching Council for Northern Ireland](#) (GTCNI) is required to work in grant-aided schools, as a teacher.

## How many overseas-qualified teachers applied for professional recognition to work in UK schools?

As well as registering and regulating domestically-trained teachers and education professionals, each regulatory body is responsible for approving registration/QTs applications from overseas-qualified individuals who want to teach in UK schools.

The Teaching Regulation Agency annual report for the financial year ending March 2021 notes, in relation to **England**:

- 1,975 teachers from the European Economic Area (EEA) and Switzerland were awarded QTS, compared to 2,458 in the previous financial year.
- There were 965 awards of QTS to teachers qualified outside the EEA and Switzerland (in Australia, Canada, New Zealand and the USA).<sup>58</sup>

In **Wales**, over the same time period, the EWC made 17 awards of QTS to applicants from outside of Wales. In the previous financial year, it had made 18 such awards.<sup>59</sup>

In **Scotland**, GTC Scotland registered 477 people qualified in EU Member States, and 1,314 applicants via Qualified Outside Scotland processes – i.e., those qualified in the rest of the UK or other non-EU countries.<sup>60</sup>

The GTCNI does not include comparable figures in its annual reports, for **Northern Ireland**.

<sup>58</sup> Teaching Regulation Agency, [Annual Report and Accounts, year ended 31 March 2021](#) (16 July 2021), pp 76-77

<sup>59</sup> Education Workforce Council, [Annual report and accounts for the year ending 31 March 2021](#), p16, [Annual Report and Accounts for the year ending 31 March 2020](#), p15.

<sup>60</sup> General Teaching Council for Scotland, [Annual Report and Financial Statements for the year ended 31 March 2021](#) (October 2021), p6

## 1.6

## Regulation of architects

The [Architects Act 1997](#) (the “1997 Act”), is the current basis for the system of registration of architects in the UK. The Act established the [Architects Registration Board \(ARB\)](#) as a public corporation of the (now) Department for Levelling Up, Housing and Communities. In order to use the title of ‘architect’ in the UK, an individual must be registered with the ARB. The title can only be used by people who have the appropriate education, training and experience needed to join the Architects Register.<sup>61</sup> There are currently over 43,500 registered architects in the UK.<sup>62</sup>

## EU and overseas architects

While the ARB has the power to recognise qualifications from outside the United Kingdom, it 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.<sup>63</sup> Overseas applicants have in the past sought recognition under one of two routes, depending on their location and circumstances, either by:

- holding a listed EU qualification under the [Professional Qualifications Directive \(2005/36/EC\)](#) (as nationals of EU Member States or those with EU Rights).<sup>64</sup> This Directive provides a system of automatic recognition of professional qualifications for architects which enables free movement within the EU; or
- using route which provides for an assessment of equivalence and an examination. This is the ARB’s Examination for Equivalence to Prescribed Qualifications (also known as the ‘Prescribed Examination’) to progress towards registering as an architect in the UK.<sup>65</sup>

From 1 January 2021 the Government has maintained a system of recognition for architects with an approved qualification from a European Economic Area (EEA) state or Switzerland, provided the applicant has access to the profession in their home state.<sup>66</sup> As part of this the ARB has operated under an interim system of recognition. This interim system uses a “frozen” version of Annex V.7.1 of Directive 2005/36/EC for registration purposes, as it existed

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<sup>61</sup> Architects Registration Board website, [Welcome to the Architects Register](#) (accessed on 16 November 2021)

<sup>62</sup> Architects Registration Board, [ARB responds to review of architects regulation](#), 16 August 2021

<sup>63</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), p12

<sup>64</sup> Architects Registration Board website, [I hold overseas/non-recognised UK qualifications](#) (accessed on 16 November 2021)

<sup>65</sup> Ibid.

<sup>66</sup> Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, [The system for recognising EU qualified architects in the UK](#) (accessed 16 November 2021)

at 11pm on 31 December 2020 (this is the version of the Directive published by the European Commission in February 2020).<sup>67</sup>

## Proposals for change: internationally qualified architects

The Government ran a [consultation between November 2020 and January 2021](#) on proposed changes to the Architect Act 1997.<sup>68</sup> It proposed (among other measures), to amend the recognition of internationally qualified architects through the creation of a new recognition system which would give both EU and non-EU qualified architects the same opportunities to seek recognition in the UK.

The [government response to the consultation](#) was published on 8 June 2021.<sup>69</sup> In it the Government confirmed its intention to amend the Architects Act 1997 to allow holders of qualifications which the ARB deems as equivalent to UK standards to enter the UK register. Once this is done, the ARB will publish the list of recognised international qualifications on its website. Potential registrants will also be required to demonstrate “compensatory measures”, which may include additional academic or vocational training and qualifications, supervised workplace experience or competence tests.<sup>70</sup> These compensatory measures are intended to ensure that individuals registering under this process have knowledge and understanding of the UK context. The ARB will determine the specific measures needed.<sup>71</sup>

The Government stated that this route would provide “flexibility” for recognising internationally qualified architects and that it “will ensure that the UK remains an attractive destination for international architects.”<sup>72</sup> It also said this would “ensure the UK architects sector continues to benefit from the varied skills and experience international architects bring with them.”<sup>73</sup>

## Further calls for views on architect regulation and training

A government call for evidence, [Review of architects regulation: call for evidence](#) was published on 16 August 2021. It seeks views from the architectural sector on their experiences of what is working well and what can be improved. It specifically looks at regulation, areas for innovation and

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<sup>67</sup> Architects Registration Board website, [Registering with EU qualifications](#), (accessed on 16 November 2021)

<sup>68</sup> HM Government, [Consultation on proposed amendments to the Architects Act 1997](#), November 2020

<sup>69</sup> HM Government, [Government response to the consultation on proposed amendments to the Architects Act 1997](#), June 2021

<sup>70</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), p12

<sup>71</sup> HM Government, [Government response to the consultation on proposed amendments to the Architects Act 1997](#), June 2021

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

whether the architectural profession is inclusive. The deadline for submissions has now closed and the Government is analysing feedback.

In October 2021 the ARB published a discussion document, [Modernising the initial education and training of architects](#). The document asks for feedback about different routes to registration as an architect, particularly those which will help widen access and increase diversity within the profession.<sup>74</sup> The deadline for responses is 10 January 2022.

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<sup>74</sup> Architects Registration Board, [ARB announces fundamental reforms to architectural education](#), 7 October 2021

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## 2 Brexit

### 2.1 EU law on the recognition of qualifications

The current UK legislative framework for the recognition of professional qualifications is largely derived from EU law. In the EU, professionals can move between EU Member States in order to practice their occupation or provide services on a permanent or temporary basis. EU Directive on the recognition of professional qualifications ([MRPQ Directive](#)) establishes the system of recognition of professional qualifications in the EU, European Economic Area (EEA) and Switzerland.<sup>75</sup>

Seven 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 Member State.<sup>76</sup>

The [automatic mutual recognition](#) of professional qualifications applies to the following 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 process.

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<sup>75</sup> [Directive 2005/36/EC](#)

<sup>76</sup> [Directive 2005/36/EC](#)

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.

The implementation of the MRPQ Directive is supported by the Internal Market Information System (IMI) – an online tool that facilitates the exchange of information between public authorities implementing EU single market law in certain areas. With regard to professional qualifications, the IMI allows member states’ authorities to verify the validity of diplomas and qualifications of professionals, who seek to practice in their country, directly with the competent authorities of another Member State.<sup>77</sup>

The UK lost access to the IMI after the end of the transition period.<sup>78</sup> The British Medical Association (BMA) has stated that this can pose a risk to patient safety.<sup>79</sup>

Until to the end of the transition period on 31 December 2020, the European Union (Recognition of Professional Qualifications) Regulations 2015 implemented part of EU Directive 2005/36/EC on the recognition of professional qualifications in the UK.

## 2.2

## Withdrawal Agreement

In November 2019, the UK and agreed the terms of the UK’s withdrawal from the EU. Article 27 of the [Withdrawal Agreement](#) (WA) (2.3MB, PDF) provides that EU qualifications recognised in the UK under the EU MRPQ Directive before the end of the transition period, remain recognised thereafter. This protection only applies to EU citizens and their family members that were residing in the UK before the end of the transition period. The Withdrawal Agreement also protects the recognised professional qualifications of frontier workers – EU nationals working in the UK but residing in the EU, and vice versa (Article 10 WA).<sup>80</sup>

Rights related to the recognition of professional qualifications belong to citizens’ rights protected by the Withdrawal Agreement, the Part II. It means that the implementation of the treaty in this area is overseen by the [Independent Monitoring Authority for the Citizens’ Rights Agreements](#) (IMA) on the UK side. The IMA can review complaints from citizens of EU Member States and their families and bring legal action on their behalf. UK courts can

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<sup>77</sup> European Commission, [Internal Market Information System About IMI page](#)

<sup>78</sup> Northern Ireland has retained limited access under the Protocol on Ireland/Northern Ireland; [Explanatory memorandum to the internal market information system regulation \(Amendment etc.\) Regulations 2021](#)

<sup>79</sup> BMA, [Effect of leaving the European Union on the UK’s health and social care sector, Parliamentary brief](#) (179KB, PDF), 19 March 2019

<sup>80</sup> 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

refer questions about the EU law concerning citizens' rights in the WA to the Court of Justice of the EU for a period of eight years following the end of transition.<sup>81</sup>

The Withdrawal Agreement was directly incorporated into UK law by the [European Union \(Withdrawal Agreement\) Act 2020](#) (EUWAA 2020).

## 2.3 Temporary post-transition regime

From 1 January 2021, a temporary general UK 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 was done to help “meet workforce demand, as well as provide clarity and certainty to businesses and professionals working in the EU”.<sup>82</sup>

Specifically, the UK has retained a general system where UK regulators are required to recognise EEA and Swiss qualifications which are of an equivalent standard to UK qualifications. UK regulatory bodies must 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.<sup>83</sup>

Under the [Swiss Citizens' Rights Agreement](#), the Government has extended transitional arrangements for Swiss nationals who have started obtaining their qualifications in the UK 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.<sup>84</sup>

## 2.4 Trade and Cooperation Agreement

[The UK and EU Trade and Cooperation Agreement](#) (TCA) includes limited commitments on the recognition of professional qualifications. The

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<sup>81</sup> Articles 158-159 WA. See Commons Library Briefing, [The UK's EU Withdrawal Agreement](#), para 3.6

<sup>82</sup> BEIS, [Recognition of professional qualifications: guidance for regulatory bodies](#), 23 December 2020

<sup>83</sup> See the [Recognition of Professional Qualifications \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) and BEIS, [Explanatory Memorandum to the Recognition of Professional Qualifications \(Amendment etc.\) \(EU Exit\) Regulations 2019](#), paras 2.9, 2.10

<sup>84</sup> Department for Exiting the European Union, [Swiss Citizens' Rights Agreement and Explainer](#), 20 December 2018

Agreement states that both sides will seek to establish more detailed reciprocal arrangements on a profession-by-profession basis in the future.<sup>85</sup>

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.<sup>86</sup> 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.<sup>87</sup> 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.

## Legal services

The TCA contains specific provisions for legal services. These allow UK lawyers to advise clients across the EU on UK and public international law using their home title. In return, EU lawyers will be allowed to provide legal services in these areas in the UK. These provisions do not give rights to practice EU law.<sup>88</sup>

Our briefing, [UK-EU Trade and Cooperation Agreement: professional qualifications](#) provides more detail.<sup>89</sup>

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<sup>85</sup> Foreign, Commonwealth & Development Office, [Trade and Cooperation Agreement](#), Cm 426, 30 December 2020

<sup>86</sup> [European Commission Q&A](#), 24 December 2020

<sup>87</sup> The Partnership Council is a joint UK-EU body that supervises the operation of the TCA at a political level.

<sup>88</sup> Foreign, Commonwealth & Development Office, [Trade and Cooperation Agreement](#), Cm 426, 30 December 2020, Title II Services and Investment, Section 7 Legal Services, Articles 192-195

<sup>89</sup> [UK-EU Trade and Cooperation Agreement: professional qualifications](#), Commons Library briefing CBP-9172

## 2.5

## Trade agreements and recognition of qualifications

The recognition of professional qualifications is an important tool to facilitate the provision of professional services in the UK. Government guidance for regulators explains its rationale for seeking recognition agreements with international partners:

Recognition arrangements can open up access to overseas markets by helping UK-qualified professionals being able to practise their profession abroad as well as increasing inbound workforce supply and the appeal of UK qualifications internationally. These arrangements can also provide an efficient means for businesses and industries to address skills shortages.<sup>90</sup>

Countries have various ways to facilitate mutual recognition of each other's diplomas and professional qualifications. Some provisions are included in free trade agreements. They often set out a general framework within which countries' professional regulators and accreditation bodies can negotiate recognition provisions for specific professions.

The UK has various international agreements containing provisions to enhance the recognition of diplomas and qualifications. As set out in section 2.4 above, the UK and the EU Trade and Cooperation Agreement provides a framework under which UK regulators can seek arrangements with their EU counterparts on a profession-by-profession basis in the future.

Some agreements, such as the [UK-Canada Trade Continuity Agreement](#), which largely transitions the EU-Canada trade agreement, have provisions that encourage a dialogue on mutual recognition and allow relevant professional bodies from both parties to develop proposals for mutual recognition of qualifications.

Other UK free trade agreements, for example, the [UK-Japan Agreement for a Comprehensive Economic Partnership \(CEPA\)](#), do not include any provisions for the recognition of qualifications.<sup>91</sup>

Regulators of professions can also enter in formalised mutual recognition agreements. These are binding arrangements that can create a streamlined process by which professionals who have obtained their qualification in one country, can apply for recognition to practise in another.<sup>92</sup>

Other, less formal types of arrangements for regulatory cooperation, such as memoranda of understanding, can be quicker to agree and more flexible in

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<sup>90</sup> BEIS, [Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), May 2021, p4

<sup>91</sup> HL EU Committee, 16th Report of Session 2019–21, [Scrutiny of international agreements: UK-Japan Comprehensive Economic Partnership Agreement](#), HL Paper 175, 20 November 2020, paras 50–52

<sup>92</sup> BEIS, [Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), May 2021, p8

their requirements.<sup>93</sup> An example of a memorandum of understanding with commitments on professional qualifications is one on the [Common Travel Area between the UK and Ireland](#).

## Which agreements are within the scope of the Bill?

The Professional Qualifications Bill primarily makes provisions for the implementation of new UK trade agreements such as the agreements which the Government has reached with Australia, New Zealand or is negotiation with the US.

The UK's [Agreement with Australia](#) includes provisions on the mutual recognition of qualifications, primarily through collaboration between UK and Australian accreditation and regulatory bodies.<sup>94</sup>

The Explanatory Notes of the Bill say that the Bill's provisions will not be necessary to implement any mutual recognition agreements agreed through the EU-UK Trade and Cooperation Agreement. These agreements can be realised using powers in the European Union (Future Relationship) Act 2020.

The Bill's powers will also not be used to implement the provisions on recognition in the so-called roll-over agreements. These are UK free trade agreements with countries, which had an agreement with the EU immediately before exit day. Examples of roll-over agreements include Canada and Mexico.<sup>95</sup> Provisions of these agreements can be implemented through the powers in the Trade Act 2021. However, the Trade Act only allows retained EU law to be amended to reflect these agreements, and not other forms of primary legislation. It would not allow the amendment of other domestic legislation that is for particular sectors. In addition, the powers under the Trade Act expire after five years, but the time needed to implement mutual recognition agreements could go well beyond that.<sup>96</sup> Such agreements would come into the scope of the Professional Qualifications Bill.

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<sup>93</sup> BEIS, [Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), May 2021, p20

<sup>94</sup> Department for International Trade, Collection [UK-Australia Free Trade Agreement](#), 16 December 2021

<sup>95</sup> [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 32; For a list of roll-over agreements see Department for International Trade, [UK trade agreements with non-EU countries](#), accessed 10 February 2022

<sup>96</sup> [DPPRC Third Report](#), HL Paper 16, 7 June 2021, p12

## 3 The Bill

The Professional Qualifications Bill was announced in the Queen’s Speech on 11 May 2021. The Bill was first introduced in the House of Lords and completed its Lords stages on 17 November.

The Professional Qualifications Bill [HL] (Bill 231, 2021-22) was introduced in the House of Commons on 18 November 2021. It had its second reading on 15 December 2021. The Public Bill Committee completed its consideration of the Bill on 18 January 2022.

The Bill consists of 21 clauses and no schedules. It extends to the whole of the UK. Amendments made by the Bill have the same territorial extent as the legislation they are amending.<sup>97</sup>

Further background to the Bill is in the House of Lords Library briefing for Lords stages.<sup>98</sup>

### 3.1 Regulations on recognition of qualifications

Clauses 1 to 4 set out a new framework for the recognition of overseas professional qualifications in the UK.

**Clause 1 and 2** would give “appropriate national authorities” – defined as Secretary of State, and the Devolved Ministers – power to make regulations that would allow individuals to practice a regulated profession in the UK, or part of the UK, subject to certain conditions.<sup>99</sup>

Any such regulations would be able to specify that individuals seeking the recognition of their overseas qualifications should be treated as if they had UK qualifications if they satisfy either of the two conditions in relation to their knowledge and skill:

- A specified regulator has decided that an individual’s overseas qualification or experience demonstrates substantially the same level of knowledge and skill as is demonstrated by the specified UK qualification or experience, or

<sup>97</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (Bill 194 2021-22), para 16

<sup>98</sup> House of Lords Library, [Professional Qualifications Bill \[HL\]: Briefing for Lords Stages](#)

<sup>99</sup> Clause 16 defines the “appropriate national authority”.

- A specified regulator has determined that the qualification or experience does not meet substantially the same standard, but that the deficiency can be made up by further qualification or experience and this has been gained.

The Explanatory Notes say that the clause is designed so as to allow regulators to assess individual applications in a way they see fit, subject to the conditions in this clause or criteria included in regulations made under this clause.<sup>100</sup>

Regulations made under Clause 1(1) would require specified regulators to recognise international applicants and assess their knowledge and skills. These regulations could also include provision regarding the form of applications and charging fees.<sup>101</sup>

The Explanatory Notes to the Bill clarify that successful applicants would still need to meet other requirements associated with practising the relevant profession in the UK, including visa requirements, criminal record checks, indemnity insurance and others.<sup>102</sup>

**Clause 2** provides that regulations under Clause 1 may only be made if the “appropriate national authority” is satisfied that regulations are necessary to meet the demand for the service provided by that profession in the UK without unreasonable delays or charges.<sup>103</sup>

The Impact Assessment clarifies that of the 18 regulated professions within the scope of the initial regulations, most already recognise international qualifications and only four would have to set up new routes for recognition.<sup>104</sup> However, some regulators not included in the new framework do not currently have alternate routes to extend recognition to EEA nationals, and lack the powers to create new routes of recognition (see section 1.2 above). These regulators would not be able to accept EEA and Swiss qualifications once the interim system is repealed.<sup>105</sup> As a result, a lower number of EEA and Swiss-qualified professionals could enter the UK labour market. However, these impacts are predicted to be small.<sup>106</sup>

**Clause 13** provides that powers to make regulations under the Bill may be used to modify legislation, including Acts of Parliament, which makes them “[Henry VIII powers](#)”. The Government’s argument for delegating these powers to the Secretary of State, or the relevant devolved authority in devolved

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<sup>100</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 22

<sup>101</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, paras 23-30

<sup>102</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 28

<sup>103</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 33

<sup>104</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), paras 29-30 and 63-64, 11 May 2021; The Impact assessment does not specify the affected professions.

<sup>105</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 71

<sup>106</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 75

areas, is that the matter is demand-led and it would not be possible to amend each piece of primary legislation governing individual profession.<sup>107</sup> The Delegated Powers and Regulatory Reform Committee pressed the Government to provide a much fuller explanation about the provisions to be made in regulations under Clause 1 and their justification.<sup>108</sup> Government amendments to Clause 1 (in Lords Committee) limited the scope of the powers under Clause 1, addressing most, but not all, of the Committee's concerns.<sup>109</sup>

## 3.2 Implementation of international agreements

**Clause 3** of the Bill would create the power for “the appropriate national authority” to make regulations to implement international recognition agreements.<sup>110</sup> Unlike under Clause 1, as originally drafted this clause did not foresee any involvement of the relevant regulator in making these regulations. However, the new Clauses 14 and 15 added in the Lords report stage, introduce provisions aimed at protecting regulatory autonomy. Clause 14 would, for example, ensure that Clause 3 regulations cannot remove the ability of a regulator to bar individuals with insufficient overseas qualifications from practising. Clause 15 would require consultation with affected regulators.

Clause 3 regulations could be made to open new routes to recognition in line with any provisions which the Government may agree in free trade agreements or specific agreements on recognition of qualifications. New routes could also involve consultation arrangements through joint committees, whose task is to oversee the implementation of such agreements.<sup>111</sup>

The Explanatory Notes clarify that the power would not be necessary to implement the UK-EU Trade and Cooperation Agreement.<sup>112</sup> It also would not be necessary for the implementation of most aspects of continuity agreements - UK trade agreements with countries, which already had signed trade agreements with the EU by 31 January 2020.<sup>113</sup> See section 2.5 above.

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<sup>107</sup> BEIS, [Delegated Power Memorandum](#), May 2021, paras 20-23

<sup>108</sup> [DPRRC Second Report](#), HL Paper 13, 27 May 2021, para 25

<sup>109</sup> [DPRRC Third Report](#), HL Paper 16, 7 June 2021, para 36

<sup>110</sup> This is a Henry VIII power as it includes power to amend primary legislation and retained direct principal EU legislation. [DPRRC Second Report](#), HL Paper 13, 27 May 2021, para 27

<sup>111</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, paras 122-124

<sup>112</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 37

<sup>113</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), para 123; some of the mutual recognition agreements negotiated under continuity agreements might be implemented through the Trade Act 2021, however, the power of Clause 3 might be used where they require amendments to primary legislation that is not retained EU law. Also, the powers provided in the Trade Act 2021 [expire after five years](#).

As with the Clause 1 power, this Henry VIII power would be exercised by the Secretary of State or Devolved Administrations. The Government argues that this power must be delegated because it relates to future agreements and that it would ensure these agreements could be properly implemented.<sup>114</sup> The Delegated Powers and Regulatory Reform Committee recommended that Clause 3 be removed from the Bill as Acts would be the proper method for implementing international treaties.<sup>115</sup>

### 3.3

## Regulator recognition agreements

**Clause 4** would create a power to make regulations whereby an “appropriate national authority” would authorise regulators to enter into recognition agreements with their foreign counterparts.<sup>116</sup> Regulator recognition agreements refer to any type of agreement between UK regulators and competent professional bodies, such as Mutual Recognition Agreements (MRA), arrangements that are part of UK free trade agreements, and less formal Memoranda of Understanding (MoU). Recognition agreements would typically be made on profession-by-profession basis.<sup>117</sup>

It is expected that this power would only be needed once for each regulator, to authorise them to enter into recognition agreements.<sup>118</sup> The agreements would be implemented using the regulators’ existing powers. The key role of this provision would be to provide clarity to regulators where the establishing legislation is insufficiently clear.<sup>119</sup>

The Department for Business, Energy and Industrial Strategy (BEIS) [guidance on mutual recognition arrangements](#) notes that MRAs will often be the method of implementing provisions of international agreements such as the UK-EU TCA.<sup>120</sup> A new BEIS Recognition Arrangements team has been set up to assist regulators.<sup>121</sup>

Similarly to clauses 1 and 3, this Henry VIII power would be exercised by the Secretary of State or Devolved Administrations. The Government argues that delegation of this power is justified because it is a narrow power and flexibility is required to address the fact that different regulators have different powers.<sup>122</sup> The Delegated Powers and Regulatory Reform Committee

<sup>114</sup> BEIS, [Delegated Power Memorandum](#), May 2021, paras 30-32

<sup>115</sup> [DPPRC Second Report](#), HL Paper 13, 27 May 2021, para 30-32; [DPPRC Third Report](#), HL Paper 16, 7 June 2021, para 36

<sup>116</sup> This is a Henry VIII power. [DPPRC Second Report](#), HL Paper 13, 27 May 2021, para 36

<sup>117</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 43

<sup>118</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 38

<sup>119</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 44

<sup>120</sup> BEIS, [Guidance Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), 12 May 2021

<sup>121</sup> [BEIS, Guidance Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), 12 May 2021

<sup>122</sup> BEIS, [Delegated Power Memorandum](#), May 2021, para 41

pointed out that more information was needed to understand the effect regulations under clause 4 could have.<sup>123</sup> The Government clarified that the power could not be used to compel regulators to enter into recognition agreements or to recognise specific qualifications.<sup>124</sup>

## 3.4 Revocation of retained EU recognition law

**Clause 5** would repeal the European Union (Recognition of Professional Qualifications) Regulations 2015 that implement the EU Directive on the Mutual Recognition of Professional Qualifications. This would end the interim provisions retained at the end of the transition period.

Commencement regulations for the revocation would contain savings provisions so that people with existing recognition would not be affected.<sup>125</sup> See section 2.2 above on the rights protected under Article 27 of the Withdrawal Agreement.

**Clause 6** would provide the appropriate national authority with the power to repeal other, sector-specific retained EU law on recognition of qualifications. The Government has clarified in the Delegated Powers Memorandum that Clause 6 reflects the fact that not all EU-derived recognition law is contained in the European Union (Recognition of Professional Qualifications) Regulations 2015. Some is found in primary legislation.<sup>126</sup> The Delegated Powers and Regulatory Reform Committee is satisfied with the justification for delegation.<sup>127</sup>

Changes brought by clauses 5 and 6 would not affect the UK's commitments to implement its international obligations under the Common Travel Area (CTA) with Ireland, the UK-EU Withdrawal Agreement, the EEA EFTA Separation Agreement, and Swiss Citizens' Rights Agreements.<sup>128</sup> Provisions of the WA and the EFTA Agreement, such as provisions on protection of existing recognitions, have been directly incorporated into UK law. The new system created by this Bill would work alongside these obligations.<sup>129</sup>

<sup>123</sup> [DPRRC Second Report](#), HL Paper 13, 27 May 2021, para 36-37

<sup>124</sup> [DPRRC Third Report](#), HL Paper 16, 7 June 2021, p13

<sup>125</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 119

<sup>126</sup> BEIS, [Delegated Power Memorandum](#), May 2021, paras 20-23

<sup>127</sup> [DPRRC Second Report](#), HL Paper 13, 27 May 2021, para 38, para 25

<sup>128</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 53;

BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 31

<sup>129</sup> BEIS, [Recognition of professional qualifications and regulation of professions: policy](#), 12 May 2021, p10

## 3.5 Assistance centre

**Clause 7** would mandate the Secretary of State to set up an assistance centre for people looking to enter a qualified profession in the UK or people with UK qualifications looking to practise overseas. Regulators would be required to provide information to the assistance centre to allow it to carry out its functions.<sup>130</sup>

The [UK Centre for Professional Qualifications \(UK CPQ\)](#), the national contact point under the EU system, would become the assistance centre.<sup>131</sup>

As explained in the Impact Assessment supplement, the Government does not expect significant additional costs as the services of the UK CPQ are currently provided under a contract by a private organisation.<sup>132</sup>

## 3.6 Duty on regulators to publish information

Clauses 8 to 10 contain transparency obligations whereby regulators would have to provide information on a website, to regulators in other parts of the UK, and to regulators overseas.

**Clause 8** provisions would require regulators to publish information on a website including necessary qualifications for a profession, the application process, registration, licenses, fees and data on applicants and rates of success. Information would be required to cover recognition of overseas qualifications as well as qualifications from other parts of the UK (devolved cases).<sup>133</sup> Regulators currently publish varying amounts of information on their websites.<sup>134</sup>

According to **Clause 9**, regulators of a regulated profession in part of the UK would be required to, share information with regulators in another part of the UK, when requested. This must relate to an individual's right to practice a regulated profession. Such information could for example include evidence of disciplinary action, or criminal offences. The Government has designed this requirement to supplement the rules on recognition of qualifications in different parts of the UK included in the Internal Market Act.<sup>135</sup> Limited

<sup>130</sup> PQ [HL1063](#) [UK Centre for Professional Qualifications: Powers], 21 June 2021

<sup>131</sup> BEIS, [Recognition of professional qualifications and regulation of professions: policy](#), 12 May 2021, p11

<sup>132</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 41

<sup>133</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 63

<sup>134</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, para 144

<sup>135</sup> BEIS, [Recognition of professional qualifications and regulation of professions: policy](#), 12 May 2021, p12

research suggests that 75% of regulators already share information voluntarily and the cost of sharing information for other regulators is low.<sup>136</sup>

**Clause 10** would require regulators of a regulated profession in the UK to provide an overseas regulator with information relating to an individual when that regulator is assessing an individual's entitlement to practice a regulated profession in that country. Such information must not be provided without the permission of the individual. The Secretary of State or a Devolved Administration would be given the power to make regulations restricting requests to specific sectors and specifying processes and fees for making a request.

## 3.7 Recognition of architects

**Clause 11** would make amendments to the Architects Act 1997. In particular it would allow the Architects' Registration Board (ARB) to require further compensatory measures (such as training or work experience) from overseas applicants who seek to register. This would enable the ARB to verify that overseas applicants who are registering with recognised international qualifications also have knowledge and understanding of the UK context before they can practise in the UK as an architect. This clause would also make some technical amendments to the 1997 Act, such as allowing the ARB's Registrar to delegate certain functions.

## 3.8 Regulation-making powers

As introduced in section 3.1 above, **Clause 13** sets out that power to make regulations under the Act would include power to modify legislation, make supplementary, transitional, and other provisions. Exceptions would apply to regulation-making powers under sections 8 and 10 regarding duties of regulators to provide information and section 20 on commencement of the Act.

The ability to modify primary legislation, including Acts of Parliament, makes the regulation-making powers under this Bill "Henry VIII powers". In the Delegated Powers Memorandum, the Government set out different rationales for the breadth of these powers in clauses 1 to 6.<sup>137</sup> The Delegated Powers and Regulatory Reform Committee accepted the use of such powers for Clauses 5 and 6 but was hesitant about Clause 1 and 4. It rejected Clause 3 entirely as representing "an inappropriate delegation of power" that should be removed from the Bill.<sup>138</sup>

<sup>136</sup> BEIS, [Professional Qualifications Bill Impact Assessment](#), 11 May 2021, paras 134-136

<sup>137</sup> BEIS, [Delegated Power Memorandum](#), May 2021

<sup>138</sup> [DPPRC Second Report](#), HL Paper 13, 27 May 2021, para 25; [DPPRC Third Report](#), HL Paper 16, 7 June 2021, para 36

**Clause 16** provides that the power to make regulations for UK regulated professions rests with the Secretary of State and the power to make regulations for devolved regulated professions rests concurrently with the Secretary of State and the relevant devolved administration. There is no requirement to consult Devolved Administrations if the Secretary of State makes regulations for devolved regulated professions. However, the Department for Business, Energy and Industrial Strategy has stated that the Bill’s intention is to preserve the autonomy of regulators and devolved administrations.<sup>139</sup>

The Scottish and Welsh Governments have both decided against recommending legislative consent by respectively the Scottish Parliament and Senedd Cymru. Both give the breadth of concurrent regulation-making powers in areas falling within devolved competence as a key reason.<sup>140</sup>

**Clause 17** sets out which parliamentary procedures would apply to making of regulations under the Bill. Regulations amending primary legislation or retained direct principal EU legislation would be subject to the [affirmative procedure](#). Other regulations would be subject to the [negative procedure](#). The Delegated Powers and Regulatory Reform Committee was concerned that the affirmative procedure did not afford sufficient scrutiny for the breadth of these powers.<sup>141</sup>

## 3.9

### Autonomy of regulators

Two new clauses were inserted into the Bill by the Government at the Lords report stage to address concerns raised by Members of the House of Lords about the autonomy of regulators that might be affected by the Bill (see section 4.3 below).

**Clause 14** is directed at protecting the autonomy of regulators. It stipulates that an “appropriate national authority” would be able to make regulations under clauses 1, 3 and 4 only if two conditions are met:

- the regulations do not remove regulators’ ability to prevent unfit individuals practising a profession; and
- the regulations do not have an adverse effect on the professions standards required to practise a profession.<sup>142</sup>

<sup>139</sup> BEIS, [Recognition of professional qualifications and regulation of professions: policy](#), 12 May 2021, p4

<sup>140</sup> Scottish Government, [Legislative Consent Memorandum](#), 12 July 2021, para 32; Welsh Government [Legislative Consent Memorandum](#), 17 June 2021, paras 32-35

<sup>141</sup> [DPRRC Second Report](#), HL Paper 13, 27 May 2021, paras 20, 24

<sup>142</sup> BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 96

This would, for example, ensure that clause 3 cannot be used to require the automatic recognition of overseas qualifications.<sup>143</sup>

**Clause 15** would mandate that before making regulations under sections 1, 3 or 4, the appropriate national authority consults the regulator of a regulated profession, which would be likely to be affected by proposed changes.

The Government added both clauses to address the concerns of Lords across the house, the DPRRC and regulators. Concerns were that the Bill might restrict regulators' independent ability to decide who was fit to practise in the UK and that the Government might ask regulators to accept overseas professionals or drop standards in order to meet a government trade objective.<sup>144</sup>

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<sup>143</sup> [HL Deb 9 November 2021 vol 815 c1690](#)

<sup>144</sup> [HL Deb 9 November 2021 vol 815](#)

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## 4 Lords stages

Members of the House of Lords generally welcomed the Bill, but many members raised concerns about the scope of the powers in the Bill and the independence of regulators. There were concerns that professional standards could be watered down by statutory instruments if there was a high and immediate demand for the services of certain professions. Members debated the lack of parliamentary scrutiny for delegated powers. They also sought to clarify which regulators and professions would be within the scope of the Bill.

A total of 83 amendments to the Bill were proposed to the Committee. No non-government amendments were agreed to. Three Government amendments to Clause 1 were agreed. These amendments aim to ensure that “regulators can assess knowledge and skills of individuals as they consider most appropriate”.<sup>145</sup>

Three further Government amendments were agreed on report, addressing concerns raised in earlier debates about the autonomy of regulators. Two new clauses were inserted with a view

- to protect the autonomy of regulators, and
- to require that regulators are consulted before new regulations are made in areas of their existing powers.

The amendments were supported across the House.

### 4.1 Second reading

The Lords second reading debate took place on 25 May 2021.

The Bill was generally welcomed but most Members of the House of Lords were concerned about:

- the scope of the powers in the Bill and independence of regulators
- the lack of parliamentary scrutiny for proposed Henry VIII powers due to changes to primary legislation by means of delegated powers
- the scope of the term “regulator”.

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<sup>145</sup> Amendments 2, 3 and 6. See [HL Deb 9 June 2021 vol 812, c1456](#)

Members of the House of Lords raised various sectoral issues relating to the architectural, medical, veterinary, accounting, legal and other professions.<sup>146</sup>

Lord Grimstone of Boscobel (Con), Minister of State (Department for Business, Energy and Industrial Strategy and Department of International Trade), introduced the Professional Qualifications Bill on behalf of the Government. He explained that with this Bill the Government intended to complement the existing powers and autonomy of regulators. Following discussions with the General Medical Council (GMC), the Government intended to amend Clause 1, to “ensure that the flexibility and autonomy of healthcare regulators and others is preserved in the event that these powers were used”.<sup>147</sup>

Lord Grimstone accepted that powers concerning the implementation of international agreements were broad but noted that most treaties preserved the regulatory autonomy by providing for regulators to enter recognition agreements.<sup>148</sup>

Spokesperson for Labour, Baroness Blake, expressed concern about the loss of autonomy and independence for regulators. She also drew attention to the lack of parliamentary scrutiny for the broad delegated powers in the Bill.<sup>149</sup>

Lord Hunt (Lab), who is a board member of the General Medical Council, echoed the general concern about the breadth of delegated powers in the Bill. He also raised concerns that Clause 1 would allow regulations to provide for recognition of an overseas qualification that was “substantially similar”. He argued this would undermine the GMC’s current rigorous process for assessing foreign applicants.<sup>150</sup> Lord Ribeiro (Con)<sup>151</sup>, Lord Patel (non-affiliated)<sup>152</sup> and Baroness Finlay (crossbench)<sup>153</sup> shared similar concerns. It was stressed that the GMC and other health professional regulators already have powers and many years’ experience in overseas recognition and registration, making the Bill unnecessary for the health professional regulators.<sup>154</sup>

Lord Hope (crossbench)<sup>155</sup> and Baroness McIntosh (Con) raised concerns about consultation provisions, especially regarding devolved administrations.<sup>156</sup>

Baroness Hayter, Labour Spokesperson, raised concerns about the necessity of the Bill. She pointed out that it was not clear which regulators would be covered. She also questioned the breadth of Clause 3 relating to trade

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<sup>146</sup> [HL Deb 25 May 2021](#) vol 812

<sup>147</sup> [HL Deb 25 May 2021](#) c909

<sup>148</sup> [HL Deb 25 May 2021](#) c911

<sup>149</sup> [HL Deb 25 May 2021](#) c913

<sup>150</sup> [HL Deb 25 May 2021 vol 812](#) c924

<sup>151</sup> [HL Deb 25 May 2021](#) c927

<sup>152</sup> [HL Deb 25 May 2021](#) c955

<sup>153</sup> [HL Deb 25 May 2021](#) c962

<sup>154</sup> [HL Deb 25 May 2021](#) c962

<sup>155</sup> [HL Deb 25 May 2021](#) c962

<sup>156</sup> [HL Deb 25 May 2021](#) c950, c956

agreements, and the lack of parliamentary scrutiny in relation to powers created by the Bill. Baroness Hayter welcomed the provision to allow regulators enter mutual recognition agreements.<sup>157</sup>

In conclusion of the debate, Lord Grimstone (Con) reiterated the importance of regulator autonomy and stated that trade deals do not generally require regulators to recognise qualifications but, rather, create frameworks for further regulator-led negotiation.<sup>158</sup> He stressed that it was not feasible to amend all the legislation governing regulated professions in this Bill and that, as such, delegation of powers was necessary.<sup>159</sup> The Bill would not require any regulator to accept an overseas qualification, they would only be required to have a route to recognition if there was a skills shortage.<sup>160</sup>

## 4.2 Committee stage

### Summary

The Committee of the Whole House considered the Bill in three sittings; on 9, 14 and 22 June. A total of 83 amendments to the Bill were proposed to the Committee.

Three Government amendments to Clause 1 were agreed. These amendments provide that if regulations permit individuals to apply for recognition of overseas qualifications, the regulator must be satisfied that *the individual* has substantially the same skill, and not that *the qualification* shows that they have substantially the same skill.<sup>161</sup>

Eight amendments were disagreed. These included amendments by Lord Hunt (Lab), to oppose Clauses 1 (recognition of individual qualifications), Clauses 3 and 4 (implementation of international agreements), and 13 (Regulations, now clause 16), Lord Fox (Lib Dem) opposing Clause 3, Baroness McIntosh (Con) opposing Clauses 5 to 6 (revocation of EU-based law) and 9 (information sharing), and Baroness Hayter (Lab) opposing Clause 7 (assistance centre).

The remaining amendments were withdrawn or were not moved. However, several speakers, who were not satisfied with the answers from the Government, indicated that similar amendments would be introduced at report stage.

<sup>157</sup> [HL Deb 25 May 2021](#) cc967-970

<sup>158</sup> [HL Deb 25 May 2021](#) c971

<sup>159</sup> [HL Deb 25 May 2021](#) c972

<sup>160</sup> [HL Deb 25 May 2021](#) c973

<sup>161</sup> Amendments 2, 3 and 6. See [HL Deb 9 June 2021 vol 812](#)

## Debate in Committee

At the Committee debate of 9 June 2021, Lord Grimstone explained that the purpose of Government amendments to Clause 1 was to allow regulators, who are required by regulations to have routes for recognition of overseas qualifications, to assess the suitability of individual applicants in whatever manner they see fit. That is, the assessment would not just be based on individuals' formal overseas qualification. The amendments would clarify that regulators would continue to assess qualifications on a case-by-case bases and the regulations under Clause 1 "would not and cannot alter the standards required to practise professions in the UK".<sup>162</sup> Amendments 2, 3 and 6 to this effect were agreed.<sup>163</sup>

Amendment 10 would have added a new subsection (3A) to Clause 1, setting out the factors a regulator may consider when assessing the knowledge and skill of an applicant who holds an overseas qualification.<sup>164</sup> Following concerns raised by Lord Lansley (Con) that Amendment 10 would *only* allow regulators to consider *either* an applicant's qualification and experience *or* other factors the regulator considered appropriate, Lord Grimstone did not move the amendment committing instead to reviewing its language.<sup>165</sup> In [a letter to Lord Lansley of 13 June](#), Lord Grimstone suggested further discussions on the issue.<sup>166</sup>

Significant debate ensued about the use of powers under Clauses 1 to 6 in cases involving devolved regulated professions.<sup>167</sup> Proposed measures included consultation with devolved administrations and consent mechanisms, as well as removing the Secretary of State's power, as per Clause 16, to make regulations that concern devolved regulated professions. Five members of the Common Frameworks Scrutiny Committee contributed to the debate.<sup>168</sup> The Government argued that the regulatory landscape was complex, as some professions were regulated UK-wide but were technically within devolved competences. It said concurrent powers of devolved administrations and the UK Government were a justified practical tool to navigate this complexity. Lord Grimstone assured that devolved administrations would be consulted and not overruled.<sup>169</sup>

The Committee went on to debate the duty to consult regulators before making regulations under Clause 1, either generally<sup>170</sup> or concerning priority

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<sup>162</sup> [HL Deb 9 June 2021](#) c1456

<sup>163</sup> [HL Deb 9 June 2021 vol 812](#) cc1443, 1466, 1472

<sup>164</sup> [HL Deb 9 June 2021](#) c1466

<sup>165</sup> [HL Deb 9 June 2021](#) c1466

<sup>166</sup> [Letter from Lord Grimstone of Boscobel to Lord Lansley](#), 13 June 2021

<sup>167</sup> [HL Deb 9 June 2021 vol 812](#) c1482 onwards

<sup>168</sup> [HL Deb 9 June 2021 vol 812](#) c1486. The common frameworks programme helps co-ordinate policy development between UK nations where powers have returned from the EU and intersect with devolved competencies. The UK Government and devolved administrations are developing a common framework on the regulation of professional qualifications.

<sup>169</sup> [HL Deb 9 June 2021](#) cc1499, 1504

<sup>170</sup> [HL Deb 9 June 2021](#) c1505

sectors.<sup>171</sup> The Government reiterated its commitment to consultation with regulators other relevant groups before making regulations.<sup>172</sup>

Lord Hunt raised the question whether Clause 1 should stand part of the Bill given “the extensive power given to Ministers without adequate justification or explanation” and lack of scrutiny. He referred to recent reports of the Secondary Legislation Scrutiny Committee, where the Committee states that it has:

become increasingly concerned about the growing tendency for the Government to introduce skeleton bills, in which broad delegated powers are sought in lieu of policy detail.<sup>173</sup>

The Government reiterated that Clause 1 of the Bill had a narrow purpose of giving regulators the power to set up routes for the recognition of overseas qualifications and to use them in certain circumstances.<sup>174</sup>

The second debate in the Committee took place on 14 June 2021.<sup>175</sup>

Members of the House of Lords debated whether Clause 3 (implementation of international agreements) should form part of the Bill.<sup>176</sup> There were concerns that, unlike under Clause 1, powers under Clause 3 could be used to amend legislation without any consultation or involvement of affected regulators. The Government argued that such powers were required in order to implement ambitious agreements on mutual recognition of qualifications. It committed that appropriate regulators would always be properly consulted during the negotiation of treaties.<sup>177</sup> However, Lord Grimstone said that the Government would consider the matter before the report stage.<sup>178</sup>

Further, the Committee debated Lord Hunt’s position that Clause 4 (authorisation of regulator agreements) should not stand part of the Bill.<sup>179</sup> Earlier, the Government had given a commitment that Clause 4 would not be used to press regulators to enter into agreements, but only to authorise them to do so.<sup>180</sup> It was generally accepted that Clause 4 was narrowly formulated but concerns were raised about the use of Henry VIII powers. The Government said that the purpose of the clause was to give regulators, who do not have the power to enter into regulator agreements, or are not sure whether they have the authority, powers to do so.<sup>181</sup>

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<sup>171</sup> [HL Deb 9 June 2021](#) c1521

<sup>172</sup> [HL Deb 9 June 2021](#) c1518, c1526

<sup>173</sup> [HL Deb 9 June 2021](#) 1538; see SLSC, [Interim report on the Work of the Committee in Session 2019–21](#), HL Paper 200, 18 December 2020 and SLSC, 20th Report of Session 2021–22 [Government by Diktat: A call to return power to Parliament](#), 24 November 2021, HL Paper 105, Chapter 2

<sup>174</sup> [HL Deb 9 June 2021](#) c1542

<sup>175</sup> [HL Deb 14 June 2021 vol 812 c1676](#)

<sup>176</sup> [HL Deb 14 June 2021](#) c1676 onwards

<sup>177</sup> [HL Deb 14 June 2021 vol 812 c1693](#)

<sup>178</sup> [HL Deb 14 June 2021](#) c1696

<sup>179</sup> [HL Deb 14 June 2021](#) c1712 onwards

<sup>180</sup> [HL Deb 14 June 2021](#) c1712 onwards

<sup>181</sup> [HL Deb 14 June 2021](#) c1714

This was followed by a debate on Lord Palmer’s (crossbench) amendment to protect people with EU qualifications that have already been recognised.<sup>182</sup> The Government assured the Committee that qualifications recognised before the end of the transition period are protected by the withdrawal agreement and qualifications recognised between the end of the transition period and revocation of the EU system would be protected by transitional provisions in regulations under Clause 5.<sup>183</sup>

The third day of debate in Committee was 22 June 2021.<sup>184</sup>

Members from across the House criticised the Government for introducing the Bill with basic facts missing, such as the number of regulators within the scope of the Bill. The Government was called to include a full list of in-scope regulators in a schedule to the Bill, rather than publishing it on GOV.UK.<sup>185</sup> The Government rejected this proposal and committed to publishing a continuously updated list of regulators.<sup>186</sup> Lord Grimstone argued however, that the Bill’s definition-based approach of a “profession regulated by law” (Clause 16) was future-proof and allowed changing the list as a new professional activity would be “regulated or even deregulated, or its name changes”, without needing to change the Bill.<sup>187</sup>

Another key issue debated was the question whether Clause 13 (General provisions about regulations) should stand part of the Bill.<sup>188</sup> There was general opposition to the breadth of the power granted to “appropriate national authorities”, the purpose of this power, and insufficient scrutiny. The Government argued that broad powers were required to deal with the fact that regulated professions are covered by various pieces of legislation. The Bill was future proof, that is, it gave powers to act expediently when international agreements needed implementation or there were changes in demand for professions.<sup>189</sup>

The Committee debated inserting a sunset clause to the Bill so that the powers could not be used more than four years after enactment with regulations made under the Act expiring on that day.<sup>190</sup> The Government argued that a sunset clause would be inappropriate for this Bill because expiring the regulations could, among others, put the UK in breach of international agreements.<sup>191</sup>

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<sup>182</sup> [HL Deb 14 June 2021](#) c1731

<sup>183</sup> [HL Deb 14 June 2021](#) c1735

<sup>184</sup> [HL Deb 22 June 2021 vol 813](#) c147

<sup>185</sup> [HL Deb 22 June 2021](#) c148 onwards

<sup>186</sup> The list has been published on GOV.UK; Department for Business, Energy & Industrial Strategy, [Guidance, UK regulated professions and their regulators](#), 14 October 2021

<sup>187</sup> [HL Deb 22 June 2021 vol 813](#) c163

<sup>188</sup> [HL Deb 22 June 2021](#) c163

<sup>189</sup> [HL Deb 22 June 2021](#) c182

<sup>190</sup> [HL Deb 22 June 2021](#) c196 onwards

<sup>191</sup> [HL Deb 22 June 2021](#) c199

Finally, members from across the House reiterated their “deep concerns” about the Bill’s potential “to undermine the independent standard-setting and public interest duties” of autonomous regulators.<sup>192</sup>

## 4.3 Remaining stages

### Report stage

Report stage of the Professional Qualifications Bill took place on 9 November 2021.<sup>193</sup>

Three Government amendments were agreed on report, addressing concerns raised in earlier debates about the autonomy of regulators. The amendments were supported across the House.

Briefly, the amendments would ensure that two conditions on regulations made under Clauses 1, 3 and 4 are met:

The first condition is that the regulations cannot remove regulators’ ability to prevent unfit individuals practising a profession.

The second is that the regulations cannot have a material adverse effect on the knowledge, skills or experience of individuals practising a regulated profession.

To put it simply, regulations cannot lower the required standards for an individual to practise a profession in the UK or, importantly, part of the UK. Taken together, these two conditions will make sure, enshrined in statute, that regulators will retain the final say over who practises in their profession and that the standards of individuals practising professions are maintained.<sup>194</sup>

Government amendment 1 to Clause 1 clarified that regulators can consider all factors they deem relevant when assessing overseas applications for recognition. Besides individuals’ overseas qualifications they could, for example, include any tests or assessments, such as language tests. Lord Grimstone emphasised that Clauses 1 and 2 “were not intended to constrain in any way a regulator’s ability to recognise overseas qualifications or experience” but rather equip them with the necessary tools to do so.<sup>195</sup>

Government amendment 12 inserted a new clause “Regulations: protection of regulator autonomy”. This amendment places a duty on “appropriate national authorities” to ensure that regulators are consulted before delegated powers under section 1, 3 or 4 in the Bill are used. This should be

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<sup>192</sup> [HL Deb 22 June 2021](#) c201

<sup>193</sup> [HL Deb 9 November 2021](#) c1686

<sup>194</sup> [HL Deb 9 November 2021](#) c1689

<sup>195</sup> [HL Deb 9 November 2021](#) c1628

done if the authority considers that the regulator is likely to be affected by the regulations or it would otherwise be appropriate to consult.

Government amendment 13 inserted a new clause that would place a duty on an “appropriate national authority” to consult a regulator of a regulated profession before making regulations under Clause 1, 3 or 4.

Referring to related amendments brought by Lady McIntosh of Pickering (Con), Lord Grimstone of Boscobel said that it would not be appropriate to introduce a similar duty to consult in relation to regulations made under Clauses 5 and 6. Clauses 5 and 6 revoke the interim measures retaining elements of EU law beyond the end of the transition period. Lord Grimstone said that these measures were always intended to be temporary and gave his assurance that the interim legislation would not be revoked or modified until any appropriate new regulations were put in place under Clause 1, and that those regulations would be subject to consultation under the Government amendment.<sup>196</sup>

Lord Grimstone told the House that the Government had talked extensively with regulators over the summer and had established a new regulated professions advisory forum. In this forum, the Government would discuss with regulators the negotiation and implementation of provisions in trade agreements and would learn about their priorities in relation to these agreements.<sup>197</sup>

Members of the House of Lords debated several amendments on consultation with and gaining consent of devolved administrations. The concerns about the engagement with the devolved administrations was shared across parties in the House.<sup>198</sup>

For example, amendment 10A to Clause 9 tabled by Baroness Blake of Leeds (Lab), sought to ensure that the requirements on information-sharing between regulators does not impact on the development of a common framework on the recognition of professional qualifications.<sup>199</sup>

In his response, Lord Grimstone informed the House that the work on this common framework had restarted after a break, and:

[i]n addition to co-operation in relation to returning EU powers, the Government have offered, if the devolved Administrations would find it helpful, to include proposals on consultation and collaboration on the operation of the Professional Qualifications Bill, once enacted, in that framework.<sup>200</sup>

The Minister promised to continue to explore amending the Bill to alleviate the concerns of the devolved administrations. He said that the Government was offering to put a duty to consult with devolved administrations in the Bill. The

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<sup>196</sup> Amendments 8 and 9

<sup>197</sup> [HL Deb 9 November 2021](#) c1642

<sup>198</sup> [HL Deb 9 November 2021](#) c1650, 1653, amendment 10

<sup>199</sup> [HL Deb 9 November 2021](#) 1659

<sup>200</sup> [HL Deb 9 November 2021](#) c1661

Government had also committed to publishing a statement setting out whether and how the regulations take account of any representations made in response to the consultation.<sup>201</sup>

## Third reading

Third reading of the Professional Qualifications Bill took place on 17 November 2021.

Lord Grimstone of Boscobel made a statement on Legislative Consent:

My officials and I have worked closely and collaboratively with the devolved Administrations throughout the passage of this Bill. We are continuing to discuss the requirements for legislative consent with the Northern Ireland Executive, the Scottish Government and the Welsh Government. I am grateful for their continued engagement on this issue.<sup>202</sup>

Members from across the House agreed that the Bill had been significantly improved during its passage through the Lords.<sup>203</sup>

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<sup>201</sup> [HL Deb 9 November 2021](#) c 1660

<sup>202</sup> [HL Deb 17 November 2021](#) c238

<sup>203</sup> [HL Deb 17 November 2021](#) c239

## 5

## House of Commons: second reading

The Commons [Second reading](#) of the Professional Qualifications Bill 2021-22 took place on 15 December 2021. The Bill was granted a second reading without a vote.<sup>204</sup>

[A Professional Qualifications Bill: Money resolution](#) was also passed, along with a [Programme Motion](#).<sup>205</sup>

Kwasi Kwarteng, the Secretary of State for Business, Energy and Industrial Strategy, introduced the Bill saying it would support the growth of the UK services sector and exports.<sup>206</sup>

The Secretary of State said that the Bill had the protection of regulator autonomy at its heart and that regulators in general had “voiced hearty support for the Bill.” He stressed that the Government continued to work collaboratively with the devolved administrations, and it hoped that legislative consent would be granted by the time the Bill left the House of Commons. He said that the Bill was “about ensuring that the regulation of professional qualifications works for the whole of the country’s interests.”<sup>207</sup>

Speaking on behalf of the Labour Party, Bill Esterson, the shadow Minister for International Trade, criticised the way the Bill was introduced in the Lords. He called it “shambolic”, for the Government initially not being clear which professions and regulators would be in the scope of the Bill.<sup>208</sup> He said that the Bill had been significantly improved in the Lords – by securing statutory protections for regulator autonomy and statutory consultations with regulators.<sup>209</sup>

Bill Esterson said that in committee and on report, the Labour Party’s priorities would be:

- regulator autonomy
- consultation with the devolved administrations
- the maintenance of high standards of professional qualifications, and
- the scrutiny of changes made through secondary legislation.<sup>210</sup>

<sup>204</sup> [HC Deb 15 December 2021](#) vol 705 cc 1106-1117

<sup>205</sup> [HC Votes and Proceedings](#), 15 December 2021

<sup>206</sup> [HC Deb 15 December 2021 c1107](#)

<sup>207</sup> [HC Deb 15 December 2021 c1107](#)

<sup>208</sup> [HC Deb 15 December 2021 c1109](#)

<sup>209</sup> [HC Deb 15 December 2021](#) cc 1113-1114

<sup>210</sup> [HC Deb 15 December 2021 c1111](#)

Bill Esterson was concerned about the extent of delegated powers in the Bill. Chi Onwurah (Lab) stressed the need to ensure that Parliament is given the opportunity “to scrutinise secondary legislation appropriately” and to include the devolved administrations in the regulation-making process.<sup>211</sup>

Bill Esterson also called for a national strategy to address skills shortages.<sup>212</sup> Paul Scully, Parliamentary Under-Secretary for the Department of Business, Energy and Industrial Strategy, responded that the Professional Qualifications Bill would help address shortage where there was clear unmet demand for the services of a regulated profession. He noted that the Government could take short-term measures to deal with skills shortages, as it had done to boost the numbers of HGV drivers.<sup>213</sup> But the Government’s domestic skills strategy was centred around the “[lifetime skills guarantee](#)” initiative and the [Skills and Post-16 Education Bill \[HL\]](#), currently going through Parliament.<sup>214</sup>

The SNP spokesperson Owen Thompson said that his party supported the key principles of the Bill. However, the Bill did not make separate provision for devolved and reserved powers, and the Government hadn’t sought legislative consent for some provisions in devolved areas of competence where it was needed according to the SNP. He said:

When the devolved nations raise concerns about consent being ignored or not required, the response we have tended to get time and again from the UK Government is that they do not intend to use those powers without consent. However, we need more than pinky promises when it comes to what does or does not require consent.<sup>215</sup>

Paul Scully reiterated that it was not the Government’s intention to make regulations in areas of devolved legislative powers, without seeking the views of the devolved administrations. He said that the Government had proposed to introduce a formal duty to consult them. It had also offered an amendment specifically for Wales, allowing the Senedd to remove UK Ministers’ concurrent powers, but the dialogue with the devolved administrations continued.<sup>216</sup>

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<sup>211</sup> [HC Deb 15 December 2021](#) c1108, c1114

<sup>212</sup> [HC Deb 15 December 2021](#) c1108

<sup>213</sup> See [UK supply chain problems](#), Commons Library briefing CBP-9350, para 3.1

<sup>214</sup> [HC Deb 15 December 2021](#) c1115

<sup>215</sup> [HC Deb 15 December 2021 cc1111-1113](#)

<sup>216</sup> [HC Deb 15 December 2021](#) c1116; see section 4.2 above regarding concurrent powers.

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## 6 Commons committee stage

The Public Bill Committee considered the Bill in a single sitting on 18 January 2022.

The Committee was chaired by Mark Pritchard MP. For a list of committee members see the Annex.

Paul Scully, Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy, was the Minister speaking on behalf of the Government. The Labour shadow team was represented by Bill Esterson, the shadow Minister for International Trade, and Chi Onwurah, the shadow Minister for Business, Energy and Industrial Strategy.

[The transcript of the Committee's sitting and the written evidence](#) are available on the Professional Qualifications Bill 2021-22 [HL] pages of the Parliament website.

### 6.1 Public Bill Committee

A total of four amendments to the Bill and four new clauses were debated in the Committee. All but one were proposed by the Labour Party. No non-government amendments were agreed, and no new clauses were added to the Bill. A Government technical amendment to Clause 21 was passed. The clauses not mentioned below were agreed to without a vote.

#### Regulator autonomy

Clause 1 of the Bill would allow the “appropriate national authority” to make regulations requiring regulators to consider applications from individuals with overseas professional qualifications and experience. Clause 2 would provide that regulations under Clause 1 may only be made if the “appropriate national authority” is satisfied that these regulations are necessary to address an unmet demand in certain professions.<sup>217</sup>

A Labour amendment to Clause 2 would have required the Government or the devolved administrations to consult with the relevant regulators and professional bodies. It would have required that additional data and

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<sup>217</sup> [PBC Deb 18 January 2022](#) c6

information is considered before determining if there's unmet demand in a certain profession and regulations under Clause 1 are made.<sup>218</sup>

The Government responded that the proposed use of information and data would be covered in a guidance for the national authorities on the determination of unmet demand. It said that the duty to consult with regulators when using the powers under Clause 1 had already been addressed by Clause 15 concerning consultation with regulators.<sup>219</sup>

The Committee rejected the amendment by 9 votes to 7, and Clause 2 was agreed to unamended.

## Supporting regulator recognition agreements

In response to the Bill, the Law Society has expressed concern that the arrangements under the UK-EU Trade and Cooperation Agreement (TCA) for the recognition of professional qualifications might be too weak to enable UK regulators to reach new agreements with their European counterparts, and has called for additional government support:

We would encourage Government to provide support, coordination and guidance on how to make the most of the MRA provisions contained in the EU-UK TCA, particularly if this is to form the benchmark for future FTAs. We note that these provisions are largely based on the EU-Canada Comprehensive Economic and Trade Agreement (CETA), with the need for an EU27 scheme to be approved by the relevant Committee in the Partnership Council. This model is yet to deliver a single MRA between the EU and Canada in the three years since it came into force. We feel Government impetus is necessary to achieve MRAs.<sup>220</sup>

Supporting the Law Society's call, the Labour Party proposed a statutory obligation on the Secretary of State to provide support to regulators in pursuit of mutual recognition agreements under the TCA.<sup>221</sup>

Minister Paul Scully told the Public Bill Committee that departmental officials were holding discussions with their European Commission counterparts to clarify the detailed process for using the TCA framework.<sup>222</sup> He said that in 2021, BEIS had established a dedicated recognition arrangements team to support regulators or professional bodies and had [published guidance](#).<sup>223</sup> The Minister promised to write with information about the advice on the TCA that

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<sup>218</sup> Amendment 2

<sup>219</sup> [PBC Deb 18 January 2022 c7](#)

<sup>220</sup> The Law Society, [Professional Qualifications Bill](#), 16 November 2021

<sup>221</sup> [New Clause 1](#) (PDF); [HC Deb 15 December 2021 c1111](#); [PBC Deb 18 January 2022 c10](#)

<sup>222</sup> For more information on the TCA provisions see [UK-EU Trade and Cooperation Agreement: professional qualifications](#), Commons Library briefing CBP-9172

The first UK-EU [Trade Specialised Committee on Services, Investment and Digital Trade](#) under the EU-UK Trade and Cooperation Agreement met on 11 October 2021. It discussed the application of Article 158 of the TCA on mutual recognition arrangements.

<sup>223</sup> BEIS, [Arrangements to facilitate the recognition of professional qualifications: guidance for regulatory and professional bodies](#), May 2021

the team had provided so far.<sup>224</sup> He also noted that the Department had a limited pilot recognition arrangement grant programme for regulators seeking to agree recognition arrangements.<sup>225</sup>

Bill Esterson said that the Minister had given him “a degree of assurance” about the dedicated support team and did not press the amendment to a vote.

## Areas of devolved competence

The Committee debated two Labour Party amendments aimed at giving the devolved administrations a larger say with regard to areas of devolved competence.

Amendment 3 would have provided ‘additional reassurances’ to the devolved administrations that the Bill would not affect the establishment or operation of common frameworks which concern devolved matters’.<sup>226</sup> Bill Esterson echoed the Welsh Government’s concerns that the Government’s assurances hitherto were insufficient.<sup>227</sup>

Minister Scully said that the common framework on professional qualifications, which is currently being developed, would not in any way be affected by the Bill, and would be completed as committed at the Dispatch Box in the House of Lords.

Amendment 3 was rejected on division.<sup>228</sup>

Amendment 4 would have obliged the Secretary of State to consult the devolved administrations where proposed regulations would affect a regulator whose competences span the whole of the United Kingdom. Examples of such regulators include the Civil Aviation Authority and the Royal College of Veterinary Surgeons. Bill Esterson said that the amendment would give the devolved administrations “a statutory right to argue their case to the Secretary of State”, without being able to stop regulations from being introduced. He stressed that the amendment mirrored the formula adopted in the UK Internal Market Act 2020.<sup>229</sup>

The SNP questioned whether the amendment went far enough in protecting the areas of devolved competence.<sup>230</sup>

Paul Scully noted that the proposal would require the Government to consult with the devolved administrations “even when legislating in a reserved area”.

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<sup>224</sup> [PBC Deb 18 January 2022](#) cc 11-12; a letter has not yet been published.

<sup>225</sup> [PBC Deb 18 January 2022](#) cc 11-12

<sup>226</sup> The common frameworks programme helps co-ordinate policy development between UK nations where powers have returned from the EU and intersect with devolved competencies.

<sup>227</sup> Amendment 3 to Clause 9, [PBC Deb 18 January 2022](#) c15

<sup>228</sup> [PBC Deb 18 January 2022](#) cc 16-17

<sup>229</sup> Amendment 4 to Clause 14; [PBC Deb 18 January 2022](#) c19

<sup>230</sup> [PBC Deb 18 January 2022](#) c19

He told the Committee that the discussions with the devolved ministers were continuing about government's own amendment on a duty to consult. But in response to Bill Esterson's question he did not say whether a government amendment would be introduced at the Commons report stage.<sup>231</sup>

Amendment 4 was rejected on division (Ayes 6, Noes 9).

## Skills shortages

During the second reading debate, Bill Esterson had spoken of the shortage of intermediate and advanced-level technical skills in sectors such as nursing, veterinary, midwifery, and care staff, and had urged the Government to put in place a long term plan for addressing skills shortages.<sup>232</sup> In the committee, the Labour Party proposed to introduce a statutory requirement for the government to publish an annual report on skills shortages.<sup>233</sup>

Minister Scully said that this Bill would not replace the Government's skills strategy but would support it. He noted that the Government was already publishing information on workforce shortages, such as the shortage occupation list, and was taking various other steps to address the issue.<sup>234</sup>

The Public Bill Committee rejected the new clause by 9 votes to 7.

Another new clause would have sought to provides additional certainty for workers who already had their professional qualifications recognised in the UK, that the Professional Qualifications Act would not affect them negatively. The Minister said that the revocation of the EU-derived system would not affect existing recognition decisions. The Public Bill Committee rejected the new clause.<sup>235</sup>

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<sup>231</sup> [PBC Deb 18 January 2022](#) cc 20-21

<sup>232</sup> [PBC Deb 18 January 2022](#) cc 1108-1111

<sup>233</sup> [PBC Deb 18 January 2022](#) c25

<sup>234</sup> [PBC Deb 18 January 2022](#) c26

<sup>235</sup> New Clause 3

## 7

## Commentary

Reactions to the Bill have been mixed. At the beginning of the Bill's consideration several Members of the House of Lords criticised the Government for not being clear about the scope of professions and regulators covered by the Bill.<sup>236</sup> Others questioned [whether the Bill was even necessary](#).<sup>237</sup>

Some regulators, including [the Architects Registration Board](#), the [Nursing and Midwifery Council](#), and [the Law Society](#), generally welcomed the Bill and the possibilities it would open to work with international partners.

Regulators of healthcare professions raised concerns about the Bill's potential to allow professional standards to be “watered down”, with implications for patient safety. Legal professions were concerned that the Bill, as drafted, could challenge regulator autonomy.

Various stakeholders have welcomed the amendments, which the Government proposed at the Lords report stage, after discussions with professional bodies. They are satisfied that the amendments alleviate their concerns about regulator autonomy and address the need for consultation with regulators.<sup>238</sup>

## 7.1

## Regulation of medical professions

During the Lords stages, concerns were raised about the Bill's potential to allow registration requirements to be “watered down”. This was a particular concern in relation to healthcare due to patient safety implications.

The [Second Report](#) of the Delegated Powers and Regulatory Reform Committee (27 May 2021) highlighted how requirements in primary legislation could be “watered down by statutory instrument if Ministers considered this to be necessary to enable demand for services of the profession in question to be met without unreasonable delays”.<sup>239</sup>

<sup>236</sup> Financial Times, [UK accused of ‘baffling’ handling of bill to recognise foreign qualifications](#), 4 July 2021

<sup>237</sup> [HL Deb 14 June 2021](#) c1691

[HL Deb 17 November 2021](#) c240

<sup>238</sup> Joe Ferreira, The Law Society, [Influencing for impact: getting through the door of government to support solicitors](#), 29 November 2021

<sup>239</sup> HL Delegated Powers and Regulatory Reform Committee, [2<sup>nd</sup> Report of Session 2021-22](#), 27 May 2021, p3

The [Royal College of Nursing \(RCN\)](#) identified [key areas of concern](#) including risks to patient safety due to “political interference in existing standards of education and practice”.<sup>240</sup> The RCN also raised concerns about the inclusion of international recognition agreements within future deals and the potential for regulators to be bound to recognise overseas qualifications, thereby undermining their autonomy. The RCN warned additional powers granted to the Government over professional regulation could lead to a “systemic over reliance on international recruitment to address nursing vacancy gaps”.<sup>241</sup>

The [British Dental Association](#) (BDA) said that whilst it welcomed the clarification the Bill provided regarding the future recognition system for professional qualifications, it was concerned the Bill did not distinguish healthcare regulators from other regulators.<sup>242</sup> As providing healthcare is “very different to a consumer-focused service” and healthcare regulators have a statutory duty to protect the public, the BDA said: “they must be able to develop their recognition procedures without pressure from Government on workforce numbers.”<sup>243</sup>

The Government [tabled amendments on report](#) to place conditions on regulations made under Clauses 1, 3 and 4 to address the concerns outlined above. See section 4.3 above.

The [Nursing Times](#) reported on 5 November 2021 that the NMC welcomed the amendment:

We welcome the government’s proposed amendments to the Professional Qualifications Bill.

It is essential that we retain our independent remit to make sure international applicants meet the same high standards as UK-trained nurses and midwives. These proposals will help ensure that is the case.<sup>244</sup>

Also the General Medical Council has welcomed the Bill as amended in the Lords.<sup>245</sup>

## 7.2

## Regulation of teachers

The limited amount of commentary on the regulation of teachers and other education professionals in the context of the Bill concerns the devolution issue and the independence of the teaching regulators in each home nation.

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<sup>240</sup> RCN, [Parliamentary Briefing: Professional Qualifications Bill](#), 29 July 2021, p1

<sup>241</sup> RCN, [Parliamentary Briefing: Professional Qualifications Bill](#), 29 July 2021

<sup>242</sup> BDA, [Defending skills and qualifications](#), 10 June 2021

<sup>243</sup> BDA, [Defending skills and qualifications](#), 10 June 2021

<sup>244</sup> Nursing Times, [Amendment proposed to nurse migration bill after concerns raised](#), 5 November 2021

<sup>245</sup> Public Bill Committee, [Written evidence by General Medical Council, PQB01](#) (PDF), January 2022

For example, speaking in a debate on the legislative consent motion associated with the Bill, Wales' Minister for Education and the Welsh Language, Jeremy Miles MS, cautioned that the Bill had been developed "at speed" and that "the process left little time for regulatory bodies, including the Education Workforce Council and Social Care Wales, to properly consider the implications of the Bill on their regulatory functions."<sup>246</sup>

In a [consultation on teacher registration rules](#), launched in October 2021, the General Teaching Council (GTC) for Scotland said that it had:

[A]ctively participated in the discussion of new legislation, including the Internal Market Bill (now the UK Internal Market Act 2020) and the Professional Qualifications Bill. GTC Scotland is strongly opposed to any proposal which could erode or dilute the integrity of the Register of Teachers through changes to qualification requirements or similar.<sup>247</sup>

## 7.3 Regulation of architects

The provisions on the regulation of architects have been broadly welcomed. Alan Kershaw, chair of the Architects Registration Board (ARB) stated that the ARB's new role in recognising international qualifications was a "positive step".<sup>248</sup> The ARB has stated that it "look[s] forward to playing a full part in shaping and supporting an architectural profession that is fit for the future."<sup>249</sup>

The Royal Institute of British Architects (RIBA) also supported the changes. RIBA president Alan Jones reiterated his organisation's commitment to work alongside the ARB to ensure any new competency requirements support and work for the profession.<sup>250</sup>

## 7.4 Regulation of legal professionals

[The Law Society](#) has welcomed the Bill's aim of supporting international cooperation between regulators. In its briefing for the Lords second reading, it expressed concern that the Bill as drafted could allow foreign bars to challenge the independence of the UK legal profession.<sup>251</sup> It later noted that

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<sup>246</sup> Senedd Cymru plenary, 5 October 2021, Col. 246

<sup>247</sup> General Teaching Council for Scotland, [Consultation on registration rules](#), (331KB, PDF) October 2021, p6

<sup>248</sup> Building Design, "[International architecture qualifications set to be recognised in the UK. government confirms](#)", 8 June 2021

<sup>249</sup> Architects Registration Board, [ARB responds to review of architects regulation](#), 16 August 2021

<sup>250</sup> Building website, "[RIBA thumbs-up after government move to recognise qualifications of overseas architects](#)", 9 June 2021

<sup>251</sup> Law Society, [Parliamentary briefing: Professional Qualifications Bill – House of Lords second reading](#), May 2021

the Lords amendments have “[softened the centralised control](#)” and better protect regulator autonomy.<sup>252</sup>

The Law Society also asked for Government’s support in implementing the UK-EU Trade and Cooperation Agreement provisions for the legal professions:

We encourage the government to provide support, coordination and guidance on how to make the most of the MRA provisions contained in the EU-UK Trade and Co-operation Agreement, particularly if this will form the benchmark for future FTAs.<sup>253</sup>

The Bar Council has welcomed the Bill but has pointed out that Clause 2 of the Bill risked conflating the independent process of the recognition of professional qualifications with the government policy on market access:<sup>254</sup>

While economic need, in some form or another, may well be treated as a condition for market access or entry to the territory by overseas professionals, treating it as a requirement to be met before a person who is otherwise sufficiently qualified/experienced (or would be after compensatory measures) can be admitted to the national profession is inimical to the concept of MRPQ. [...]

[A]dmission to a profession does not in itself confer any right to enter or stay in the UK to provide professional services. Clauses 1 and 2 appear wrongly to conflate these things. We can see no justification for subjecting the power of admission to a profession to an economic test of unmet need or the like.

We are concerned that Clause 2 is therefore a misconceived statement of public policy.<sup>255</sup>

The Law Society of Scotland was satisfied with the Bill’s aims but said it would welcome a more explicit commitment to respect the distinct nature of legal services across the UK, and a greater emphasis on the autonomy of regulators and devolved administrations to set professional standards. It called for consultations with regulators in areas of their competences.<sup>256</sup> It also urged the Government to seek the consent of the devolved administrations when setting up the Assistance Centre under Clause 7.<sup>257</sup>

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<sup>252</sup> Joe Ferreira, Law Society, [Influencing for impact: getting through the door of government to support solicitors](#), 29 November 2021

<sup>253</sup> [Parliamentary briefing: Professional Qualifications Bill - House of Lords report stage](#), Law Society, November 2021

<sup>254</sup> Clause 2 provides that regulations under Clause 1 may only be made if the “appropriate national authority” is satisfied that regulations are necessary to meet the demand for the service provided by that profession in the UK without unreasonable delays or charges. BEIS, [Explanatory Notes](#) to the Professional Qualifications Bill (HL Bill 2 2021-22), para 33

<sup>255</sup> Bar Council, [Professional Qualifications Bill Briefing for Peers – Committee Stage](#), June 2021

<sup>256</sup> Law Society of Scotland, [Second Reading Briefing: Professional Qualifications Bill](#), May 2021

<sup>257</sup> Law Society of Scotland, [Suggested amendment and briefing for the report stage](#), November 2021; Law Society of Scotland, [Professional Qualifications Bill Second Reading](#), December 2021

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## Annex: Public Bill Committee details

### Members of the Committee

- Chairs: Mark Pritchard, Hannah Bardell
- Baynes, Simon (Clwyd South) (Con)
- Bell, Aaron (Newcastle-under-Lyme) (Con)
- Carter, Andy (Warrington South) (Con)
- Cummins, Judith (Bradford South) (Lab)
- Esterson, Bill (Sefton Central) (Lab)
- Fletcher, Colleen (Coventry North East) (Lab)
- Fletcher, Mark (Bolsover) (Con)
- Flynn, Stephen (Aberdeen South) (SNP)
- Higginbotham, Antony (Burnley) (Con)
- Leadbeater, Kim (Batley and Spen) (Lab)
- Onwurah, Chi (Newcastle upon Tyne Central) (Lab)
- Sambrook, Gary (Birmingham, Northfield) (Con)
- Saxby, Selaine (North Devon) (Con)
- Scully, Paul (Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)
- Webb, Suzanne (Stourbridge) (Con)
- Whitley, Mick (Birkenhead) (Lab)
- Whittaker, Craig (Lord Commissioner of Her Majesty's Treasury)

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