



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Professional Qualifications and Services (Miscellaneous Provisions) (EU Exit) 2020**

**DATE**            **08 July 2020**

**BY**                **Rebecca Evans AS, Minister for Finance and Trefnydd**

**SO30C – Notification in Relation to Statutory Instruments made by UK Ministers in devolved areas under the European Union (Withdrawal) Act 2018 not laid before the Senedd**

### **Policy Overview of the SI**

The Regulations will ensure the EU Exit frameworks for the recognition of professional qualifications (RPQ) and the provision of services will function effectively after the transition period and make other minor corrections.

The regulations also contain other provisions which are made in accordance with powers under the European Communities Act 1972 and the European Union (Withdrawal Agreement) Act 2020. An explanation of these provisions is contained in the Annex to this Written Statement for information.

### **The [retained EU] Law which is being amended**

The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019

The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018

Certain directly effective treaty rights which relate to the recognition of professional qualifications and which form part of retained EU law by virtue of section 4 of the European Union (Withdrawal) Act 2018

### **The purpose of the amendments**

The purpose of the amendments is to correct deficiencies in retained EU law arising from the UK leaving the European Union relating to Professional Qualifications and Services.

To ensure the EU Exit frameworks for RPQ and Services will function as intended after the Transition Period ('TP'), the SI will make provisions to disapply aspects of retained EU law (directly effective treaty rights) and make miscellaneous amendments to previous EU Exit SIs, namely the Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 and the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019.

### **Disapplication of directly effective treaty rights**

The directly effective rights addressed by this instrument may be inconsistent with rights available under RPQ EU Exit legislation and leave open the potential for professionals to circumvent established procedures when seeking recognition of their professional qualifications. This instrument will disapply retained RPQ rights derived from provisions of the Treaty on the Functioning of the European Union (TFEU) and the Agreement on the European Economic Area (the EEA Agreement) which relate to the free movement of workers (Article 45 TFEU and Article 28 of the EEA Agreement). This instrument will also disapply any retained directly effective rights derived from Article 9 and Annex 3 of the Swiss Free Movement of Persons Agreement (FMOPA). This is necessary to ensure legal clarity and maintain the integrity of the UK's recognition framework after the TP.

It is also necessary to disapply any directly effective rights relating to non-discrimination in so far as they apply to the disapplication of these RPQ Treaty rights, to prevent individuals relying on these rights to challenge this disapplication and to ensure legal clarity.

### **Miscellaneous amendments**

After the TP, the Services Directive will no longer apply to the UK or to EEA businesses or individuals providing services in the UK. Therefore, the Provision of Services Regulations 2009 have been amended by the Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 ("the Services Regulations") to fix any deficiencies arising from the UK's withdrawal from the EU. The Services Regulations were not drafted to factor in a TP; so they must be amended to change the references in the body of the text from "exit day" to "IP completion day".

Similar technical amendments to "exit day" references will also be made to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here:

<https://statutoryinstruments.parliament.uk/timeline/4coIMQjV/SI-2020/>

### **Any impact the SI may have on the Welsh Ministers' executive competence**

As the regulation of certain professions is devolved, the consent of the Welsh Ministers has been sought in this instance. There is no transfer of powers as a consequence of the regulations.

## **Any impact the SI may have on the legislative competence of the National Assembly for Wales**

The SI has no impact on the National Assembly for Wales' legislative competence.

## **Why consent was given**

There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UKwide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

Annex

**Amendment of the European Union (Recognition of Professional Qualifications) Regulations 2015 under section 2(2) of the European Communities Act 1972**

This instrument will also correct a transposition error in the 2015 Regulations which needs to be rectified whilst the UK remains subject to EU law.

This is a 'business as usual' amendment. It is not intended to correct a deficiency in retained EU law.

**Amendments to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 and other sector specific legislation under section 12 of the European Union (Withdrawal Agreement) Act 2020**

This instrument implements into domestic law the Recognition of Professional Qualifications ("RPQ") provisions in the EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Swiss Citizens' Rights Agreement (collectively, "the Agreements"), that are not covered by existing RPQ EU Exit legislation.

It will do this by amending the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 and other sector specific RPQ legislation, namely, the Farriers and Animal Health (Amendment) (EU Exit) Regulations 2019 and the Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019.

The consent of the Welsh Ministers has been sought as the amendments relate to professions whose regulation is devolved.

The Welsh Ministers have given their consent to the making of these amendments in the circumstances related to the UK's withdrawal from the EU. There is no divergence between the Welsh Government and the UK Government on the policy for the amendments. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book.