



Department for
International Trade



Department for
Business, Energy
& Industrial Strategy

Lord Grimstone of Boscobel, Kt
Minister for Investment

Department for International Trade
Old Admiralty Building
London
SW1A 2BL

Lord Lansley
House of Lords
London
SW1A 0PW

T +44 (0) 20 7215 5000
E grimstone.correspondence@trade.gov.uk
W www.gov.uk/dit

13 June 2021

Dear Andrew,

Thank you once again for your engagement on the Professional Qualifications Bill, and for speaking at the Committee on 9 June.

I wanted to follow up on some points you raised, to which I was not able to respond directly in my closing speech. You proposed an amendment in relation to what is meant by 'unmet demand' and asked for clarification on what will be included in any international agreement explanatory memorandum laid under the Constitutional Reform and Governance Act. You also asked for detail on how international recognition agreements will be implemented in legislation.

Unmet Demand, Amendment 21 Clause 2

In relation to your question on Clause 2, 'unmet demand' articulates cases when demand for the services of a particular profession cannot be met 'without unreasonable delays or charges'. By unreasonable delays, we mean a delay in consumers receiving the services of the profession, for example, if a profession, such as social workers, is unable to deliver its services at a reasonable speed without more professionals in the workforce. By unreasonable charges we mean that consumers or businesses (including the NHS or local authorities) are facing fees for the services provided by a profession that are unreasonably high, caused by a shortage of professionals. Clauses 1 and 2 provide a mechanism for addressing this by putting in place appropriate routes to recognition for overseas professional qualifications.

There are a variety of factors a national authority could take into account in deciding whether the condition in Clause 2 is satisfied. Firstly, in the spirit of regulator autonomy, it could consider whether there are other ways through which professions might address shortages, such as better use of arrangements already in place to recognise qualifications from other countries. Then, in deciding whether regulation under Clause 1 might help, the national authority could consider whether the profession is associated with an occupation on the shortage occupation list, relevant data (existing vacancy levels, workforce statistics and skills-needs forecasts) and, of course, the views of all interested parties, including the relevant regulatory authority.

The considerations are deliberately broad so that the Government and Devolved Administrations can evaluate the broadest range of information relevant to the circumstances of specific professions.

Impact Assessment

We will consider the need for an impact assessment on regulatory independence when implementing an international recognition agreement. The independence of regulators is critical to the success of the framework we are proposing. They are the experts in their fields; they should be responsible for deciding who is fit to practise in the UK.

Implementation of International Recognition Agreements in Legislation

You asked how international recognition agreements are to be implemented in legislation. To do this, the Bill will take a power to implement through Clause 3.

Clause 3 provides an enabling power for the implementation of international agreements on professional qualifications. This will ensure that the UK government can meet its international commitments and that UK professionals can benefit from ambitious arrangements on professional qualifications.

All treaties, including those including measures on the recognition of professional qualifications agreed by the UK, will be subject to the procedure set out in the Constitutional Reform and Governance Act 2010. It is only after that procedure, and the requisite parliamentary processes have been completed, that the powers to implement would be used.

Any secondary legislation made under Clause 3 that amends primary legislation or retained direct principal EU law will be subject to the affirmative procedure. This ensures that there is appropriate parliamentary scrutiny.

Regulation of Healthcare Professionals

You asked whether the Government would implement recommendations 7 and 9 of the Law Commission's April 2014 report^[1] on the Regulation of Health and Social Care Professionals to remove section 60 of the Health Act 1999 and the powers of the Privy Council.

In January 2015, the then-Government produced a response to the Law Commission's recommendations^[2], in which it accepted the majority of the report's proposals in full. However, on page 10, it was noted:

'It is the Government's view that the Privy Council should retain its other powers in relation to regulation of health professionals, including continuing to exercise default powers in relation to the regulatory bodies and PSA, rather than the Government.'

Furthermore, on pages 11-12, it was stated:

'The Government considers that there should be adequate powers to amend, as required, the legislative framework in this area without requiring primary legislation... We would want further clarification as to whether making replacement provision in the new framework for

^[1] [Cm 8839 Regulation of Health Care Professionals / Regulation of Social Care Professionals in England](#)

^[2] [Regulation of Health Care Professionals Regulation of Social Care Professionals in England Cm 8995 \(publishing.service.gov.uk\)](#)

^[3] [Promoting professionalism, reforming regulation - GOV.UK \(www.gov.uk\)](#)

^[4] [Regulating healthcare professionals, protecting the public - GOV.UK \(www.gov.uk\)](#)

some or all of the matters covered by section 60 is the best approach, or whether to retain section 60 and ensure its powers are equally sufficient for future purposes.'

My officials have consulted with Department of Health and Social Care (DHSC) officials and I understand that it remains the Government's view that the regulatory powers of the Privy Council in relation to the health and care professions should be maintained. Moreover, a UK Government has never committed to the removal of section 60 of the Health Act 1999.

Since the Law Commission published its report, the UK Government and Devolved Administrations have undertaken an extensive programme to bring forward the reform the regulation of healthcare professionals in the UK. The 2017 consultation, '*Promoting Professionalism, Reforming Regulation*' and subsequent Government response published in July 2019^[3] set out high-level proposals to provide all UK healthcare regulators with broadly consistent powers within a modernised legal framework.

More recently, in March 2021, DHSC published an open consultation on professional regulation reform, entitled '*Regulating healthcare professionals, protecting the public*'^[4]. The consultation, which closes on 16 June 2021, sets out detailed policy proposals to modernise each of the healthcare professional regulators' legislative frameworks. This work builds on the foundations set out in the Law Commission's 2014 proposals.

One of the key differences between the Law Commission's approach and those currently being consulted on by DHSC, is the vehicle by which the reform package will be delivered. Whilst the Law Commissions envisaged a single primary piece of legislation, the Government is now planning to implement its changes through a series of secondary legislative orders made under section 60 of the Health Act 1999. Hence, the Government believe it is appropriate to retain the powers bestowed in section 60.

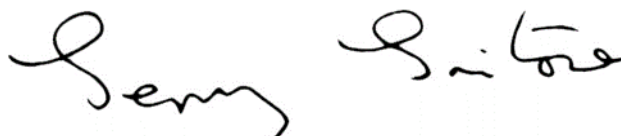
I trust this has clarified the matter, but please do let me know if you require more information on this subject.

Amendment 10

Separately, regarding your proposed Amendment 10 to remove "only" from Clause 1(3A)(b)(i), I would like to invite you to a meeting with me and my officials to discuss your proposals in more detail, following the conclusion of Committee stage. My Private Office will be in contact with you in due course.

I hope my responses above are helpful. However, if you have any further questions ahead of the proposed meeting, please do let me know.

Yours sincerely,



Lord Grimstone of Boscobel, Kt
Minister for Investment
Department for International Trade
Department for Business, Energy & Industrial Strategy

^[1] [Cm 8839 Regulation of Health Care Professionals / Regulation of Social Care Professionals in England](#)

^[2] [Regulation of Health Care Professionals Regulation of Social Care Professionals in England Cm 8995 \(publishing.service.gov.uk\)](#)

^[3] [Promoting professionalism, reforming regulation - GOV.UK \(www.gov.uk\)](#)

^[4] [Regulating healthcare professionals, protecting the public - GOV.UK \(www.gov.uk\)](#)