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Department for Business, Energy & Industrial Strategy

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Dear Jeremy,

Thank you for your engagement with the Professional Qualifications Bill to date. At Committee on 9 June, I covered some of your questions with regards to amendments in your name on regulator autonomy, devolved administrations and on delegated legislation procedures. However, I should now like to follow up on some points raised during the course of the debate, to which I was not able to respond directly at the time.

Oversight of regulators – setting fees

In the debate, you asked about parliamentary oversight of regulators as they set their fees, and how this interacts with the consultation on regulating healthcare professionals being carried out by the Department for Health and Social Care (DHSC). My officials have been working closely with DHSC officials to ensure this Bill and the consultation align. Given this issue was raised by several Peers at Committee, I have responded to your queries in a standalone letter on fees which has been sent to you and others.

Excluding professions from this Bill

In your speech you noted that some Scottish professions, such as the legal services and teaching professions, were excluded from the UK Internal Market Act. The UKIM Act and this Bill have different objectives. The parts of the UKIM Act that related to professional qualifications concerned the recognition of UK residents with UK qualifications as equivalent across the jurisdictions of the four nations. This Bill is concerned with removing a system that gives preferential access to EEA and Swiss professional qualifications holders to the UK professions, and moving to an approach in which regulators take the lead.

If the Government uses the Professional Qualifications Bill's powers to create a new recognition route, a decision by the relevant regulator to recognise an overseas-qualified professional would only be valid for the jurisdiction of that regulator. The regulators overseeing the legal services and teaching professions across the UK's nations will still operate autonomously to make decisions about who practises within their jurisdictions.

Data-sharing clauses – interaction with DHSC consultation

You raised a question about rules on data-sharing in this Bill and how these interact with other Government proposals. I can reassure you that my officials have been working closely with DHSC officials and with other Departments throughout this process to ensure policies align, and interdependencies are recognised.

The proposals in the DHSC consultation on healthcare professionals relate specifically to the publishing of information on public registers, which is dealt with primarily by sector-specific legislation. So DHSC would lead on regulation implementing the proposals from that consultation.

The clauses on data-sharing in the Professional Qualifications Bill deal with the sharing of information between equivalent regulators in the UK, and overseas. With respect to Clause 9 specifically, we are proposing to underpin arrangements for data-sharing between regulators in the UK, which currently largely operate on a voluntary basis, through this Bill, where necessary. This will give a legal assurance to regulators that they can continue to have access to the information they need on individuals' fitness to practise. This is an important public safety consideration.

In the event that voluntary cooperation were to break down between regulators, and a regulator required information to make appropriately informed decisions on entitlement to practise, this clause ensures the regulator would continue to be able to request and receive that information.

Recognition of EEA professionals

As part of the UK-EU Withdrawal Agreement and the UK-EEA/EFTA Separation Agreement, EEA nationals (and their family members in certain situations) resident or frontier-working in the UK at the end of the Transition Period will continue to have their professional qualifications recognised, as long as they applied for a recognition decision before the end of the Transition Period.

EEA professionals whose qualifications were recognised before the end of the Transition Period continue to be recognised and their decisions remain valid as provided for the Withdrawal Agreement and the EEA/EFTA Separation Agreement. The validity and status of recognition decisions made before the end of the Transition Period will not change. UK legislation also provides that applications made before the end of the Transition Period but not completed at that time, are to be completed under the rules in force immediately preceding the end of the Transition Period. This Bill has no impact on these arrangements.

Since 2018, UK regulators have given over 16,000 professional qualification recognition decisions to EEA and Swiss applicants[1]. The UK and EU meet regularly in a Specialised Committee on Citizens' Rights, to ensure the Withdrawal Agreement has been implemented and is being upheld by both parties.

[1] https://ec.europa.eu/growth/tools-databases/regprof/index.cfm?action=stat_overall&b_services=false&id_host_country=15&id_period_from=19

CRAG Process & international agreements

Treaties agreed by the UK will be subject to the procedure set out in the Constitutional Reform and Governance Act 2010 (CRAG). It is only after that procedure, and the requisite parliamentary processes have been completed, that the power in Clause 3 would be used.

If a Mutual Recognition Agreement (MRA) was not a treaty in its own right and did not amend the original treaty, then there would be no need to go through the CRAG process again. This is the appropriate result, in the Government's view, because Parliament would have had the opportunity to scrutinise both the original treaty, and any regulations made to implement the MRA.

In relation to scrutiny of MRAs, I should point out that these will be regulator-led, in the interests of their professions and stakeholders. Regulators would engage with relevant national authorities and those with an interest in developing MRAs, so the arrangements would be scrutinised by a wide range of parties.

On regulator autonomy

In relation to your Committee debate contributions, I would like to provide clarity on why there is specific provision to provide guidance in Clause 1(5)(f). Clause 1(5) is an illustrative list of the types of matters which could be set out in Regulations, tailored to the specific needs of the regulator, in connection with applications for determinations under Clause 1. The Regulations could require the regulator to have regard to guidance when determining an application. The Regulations would specify by whom that guidance would be issued (likely to be the Government or the relevant devolved administration). The guidance could step through key considerations to help shape the approach to decision-making. This is a sensible and pragmatic provision, designed to support regulators without diminishing their autonomy.

Professions covered by the Bill

Across the UK, there are over 160 professions regulated by law, by more than 50 regulators. Many of these professions have their own primary legislation. Some professions are regulated differently in different parts of the UK. If professions and supporting legislation were listed in the Bill, it would be unwieldy and could very quickly become out of date.

The framework needs to be future proof and support professions which are not yet regulated in law but might be in future. Keeping this as a framework Bill ensures it functions within the evolving regulatory landscape.

It is only in professions which are regulated by law that individuals are legally prevented from pursuing a profession without certain qualifications or experience. Therefore, it is only in professions regulated by law that pathways to recognition are necessary if we want overseas professionals to practise in the UK.

Professions regulated on a voluntary basis are therefore not included in the new framework provided by this Bill.

Relationship between skills shortage and immigration targets

Finally, you also asked how the ambitions of this Bill would address Home Office immigration targets.

This Bill is specific to the recognition of professional qualifications and the role of UK regulators in ensuring overseas professionals meet UK professional standards. The right to work in the UK as regards immigration requirements is a separate issue in law.

The recognition of a professional qualification does not mean that an individual automatically meets the UK's immigration requirements. If individuals need to secure visas to practise a profession in the UK, that condition will still need to be met in order to come to the UK. In response to an issue raised at Committee, this Bill does not propose or anticipate any formal, legal relationship between, for example, the Shortage Occupation List for Skilled Worker visas, or regulators' qualification recognition routes.

I hope my responses above are helpful ahead of debating the Professional Qualifications Bill at the second day of Committee on 14 June.

Yours sincerely,

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