



Department for  
International Trade



Department for  
Business, Energy  
& Industrial Strategy

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6<sup>th</sup> July 2021

Dear Judith,

Thank you once again for your engagement on the Professional Qualifications Bill, and for speaking at Committee on 22 June. I particularly value your contribution in articulating the benefits that the Bill will bring to public services and the wider economy.

I wanted to follow up on some points you raised, which I was not able to respond to directly.

### **Negative Procedure Statutory Instruments (SI)**

During Committee, you queried what distinction the Government had drawn between affirmative and negative procedure SIs. As you rightly pointed out, regulations will be made under the affirmative procedure where they amend primary legislation or retained direct principal EU law. This ensures an appropriate level of parliamentary scrutiny.

I want to provide some clarity in response to your query regarding the Delegated Powers and Regulatory Reform Committee's (DPRRC) assessment of Clause 10(4). You mentioned that the DPRRC deemed the approach to Clause 10(4) as "inappropriate". The DPRRC in fact stated, "we do not consider this (Clause 10(4)) to be inappropriate given that it is very narrowly drawn". I hope this provides you with the clarity you were seeking on this.

Negative procedures will be used when regulations amend subordinate legislation, which is often of a technical nature and so the content does not require the extra parliamentary scrutiny of the affirmative procedure. It is important to note that the procedure under which

regulations are made is both reviewed and approved by the joint House of Lords and House of Commons Secondary Legislation Scrutiny Committee, as standard. This process ensures that the expert views of Peers are heard and ensures legislation is appropriate, effective and proportionate.

The Government does not envisage frequently having to make use of negative procedures for technical alterations, though it is not possible to estimate how many negative procedure SIs will be necessary in the future. Nevertheless, all such legislation will be subject to appropriate scrutiny and approval. Moreover, I should like to make clear that my officials engage very frequently with the Devolved Administrations, regulators, professional bodies and a range of other interested parties on all aspects of their work on regulated professions. It is their expertise that informs our approaches and I believe strongly that we would not bring forward regulations under the Bill that had not been informed by extensive engagement.

### **Retained EU Legislation**

You also asked about the Government's approach to retained EU legislation. As all noble Lords are aware, we are no longer a Member State of the EU and since the end of the Transition Period the UK has no longer had to abide by EU law.

The revocation of the 2015 Regulations ends a system which placed obligations on regulators to treat European qualification holders a certain way, which is often preferential to the way the regulator chooses to treat professionals with qualifications from other parts of the world. The retention of this system was always meant to be temporary.

I also want to emphasise again that the temporary general EU system which was introduced to protect workforce supply in the UK in the short term at the end of the Transition Period, is unreciprocated for UK professionals in the EU. This means that if we do not provide a power to revoke the retained EU system through this Bill, including the 2015 Regulations, our regulators will continue to be subject to EU-derived obligations which often result in preferential treatment for professionals who hold recognised EEA and Swiss qualifications. It is now the right time to end this temporary system and replace it with a more appropriate one.

Removing this system will bolster our negotiating power in future trade negotiations, by ensuring the UK is not bound by requirements other than those we tailor for the UK's circumstances.

I should also reiterate that the revocation of the EU-derived law retained under the temporary system does not affect the UK's international obligations under certain international agreements. These include the Withdrawal Agreement, the EEA EFTA Separation Agreement, and Swiss Citizens' Rights Agreement; the rights of all European Economic Area and Swiss citizens living or frontier-working in the UK will continue to be upheld and protected under these agreements.

Likewise, it is important to stress that there is no set commencement date for these revocations. They will only be made when deemed necessary and the time is right.

I hope my responses above are helpful. However, if you have any further questions ahead of Report stage, please do let me know. I will share this letter with colleagues who spoke in this debate and a copy of this letter will be deposited in the Library of the House of Lords.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Grimstone". The signature is written in a cursive style with a large initial 'G' and a long tail.

**Lord Grimstone of Boscobel, Kt**  
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