



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

Baroness Noakes
House of Lords
London
SW1A 0PW

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

By Email

12th October 2021

Dear Sheila,

Thank you again for your continued engagement on the Professional Qualifications Bill and for the helpful discussion, with Lord Lansley, on 27 July.

During that meeting, we discussed the complexity of the regulatory landscape, and that there may be multiple regulators for a profession. Sometimes, there are oversight regulators who delegate some of their regulatory functions to other bodies. You highlighted the importance of not creating additional work or duplication between those regulators as a consequence of the information-sharing clauses in the Bill.

My officials have since met on several occasions with the Institute of Chartered Accountants in England and Wales (ICAEW), who provide regulatory functions in one such profession (audit) where there are several regulators. They have used these discussions to track through how a regulator, to whom an oversight regulator (in this case the Financial Reporting Council) has delegated certain functions, might be affected by the Bill. These discussions have been constructive and confirmed that the information sharing clauses in the Bill can be effectively employed with minimal disruption for both regulators. As part of these discussions, a technical note on Clauses 8, and 9 was shared with ICAEW, and I have attached this for your information in Annex A.

Although our discussion covered all information-sharing provisions, the principal focus was on Clauses 8, and 9, which I have addressed in further detail here.

Clause 8

On Clause 8, the duty of a regulator to publish information on requirements to practise, you expressed concerns that this could result in more than one regulator having to collate and publish the same information.

The Bill does not require multiple regulators to publish the same information. Clause 8 stipulates that where the regulator is not the only regulator of the regulated profession, the duty to publish can be fulfilled by just one of those regulators - so long as the other regulators are identified on the website of the regulator that is fulfilling this duty. No further action would be required from the other regulators. Publication of the information by the first regulator, for the purposes of this clause, is thereby deemed to have also been done by the other regulators. In this scenario, all the regulators would have met the Clause 8 duty.

Regulators can agree amongst themselves who publishes what of the specified information. For example, in the case of audit, the Financial Reporting Council (FRC) regulates UK statutory auditors, and it delegates certain regulatory functions to its Recognised Supervisory Bodies (RSB); the Association of Chartered Certified Accountants (ACCA), ICAEW, the Institute of Chartered Accountants of Scotland (ICAS), and the Chartered Accountants Ireland (CAI). The FRC, ACCA, ICAEW, ICAS and CAI can, if they so wish, come together, and agree that one of them publishes information specified under Clause 8, while the others publish a statement which directs users to that single regulator's web content. The ways in which the regulators reach this agreement and whether one, some or all of the regulators publish the information is for regulators to manage amongst themselves.

I would also like to reassure you that where a regulator already publishes the information that is specified under Clause 8, then they are already compliant with the clause. If any of the requirements specified in Clause 8 are not relevant to the regulator, then the regulator would only need to publish a statement explaining that they do not hold the information as it is outside of their regulatory function.

Clause 9

On Clause 9, the duty of a regulator to share information with a regulator in another part of the UK, you expressed concerns that this duty could require a regulator to gather information it did not hold only for the purpose of sharing it with another UK regulator.

The duty in Clause 9 only applies to relevant information about professionals which the regulator already holds. The regulator would not need to find data to meet a request if it is not already held by them. The clause also only applies when the information is requested by an equivalent regulator which regulates a corresponding regulated profession in another part of the UK, and the information requested is required for the purposes of assessing an individual's entitlement to practise.

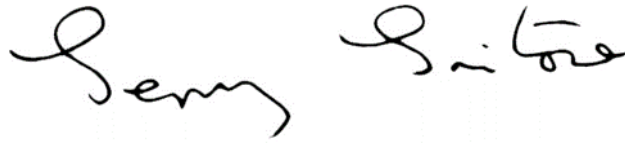
For example, the ICAEW would only be required to share relevant information on an individual under the duty in Clause 9, if that information was requested by another RSB from another part of the UK. However, if the information that was requested by said RSB was not held by the ICAEW at the point of the request, the duty in clause 9 would not apply and no further action would be required.

Further, in the case of the FRC, the duty in Clause 9 would not apply to the FRC because the FRC operates on a UK-wide basis, so there is no equivalent regulator to share information with in another part of the UK. Also, the FRC, as an oversight body, is unlikely to hold the information on an individual and having the information at the point of request is a condition set out in Clause 9.

I hope this explanation helps to reassure you that these provisions of the Bill go no further than their intention of improving transparency around regulatory practice, and putting much

of what already happens as good practice onto a legislative footing. It does not require regulators to duplicate activity and should help to encourage collaborative working between regulators. A copy of this letter will be placed in the Libraries of the House.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Grimstone'.

Lord Grimstone of Boscobel, Kt
Minister for Investment
Department for International Trade
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Annex A: Professional Qualifications Bill - Technical Note on Clauses 8 and 9

Clause 8: Duty of regulator to publish information on requirements to practise

- Clause 8 requires regulators to publish information about the requirements they place on individuals to enter or remain in their profession. This is a new transparency duty, which aims to reduce the risk of a lack of information being a barrier to entering and practising professions.
- Subsections (1)(a) and (1)(b) require a regulator of a regulated profession to publish the information specified in subsections (2)(a) to (2)(j) on their public website, and to keep the information up to date. The regulator website must be easy to use, so that the specified information is easy to find and clearly signposted.
- The definition of a regulator of a regulated profession is provided under clause 16, subsection (1). A “regulator”, in relation to a regulated profession, means a person having functions under legislation that relate to the regulation of the profession in the UK, or in a part of it, in which the profession is regulated by law.
- The information that must be published is set out in clause 8, subsection (2). Subsection (2)(a) refers to the qualifications or experience that an individual must obtain to become entitled to practise in the UK.
- Subsections (2)(b) and (2)(c) refer to the application process for applying to become entitled to practise the profession with a qualification from overseas or another part of the UK. Subsection (2)(d) requires a regulator to set out the number of individuals applying through these processes and the number of positive recognition decisions resulting from the processes, as well as the qualifications or experience held by these individuals.
- Subsection (2)(e) is information on any requirement to be registered, licensed, or similarly authorised in order to be entitled to practise, and subsection (2)(f) is any other requirement to be entitled to practise the profession. For example, if considering certain legal professions: 8(2)(a) is a law degree, and 8(2)(e) is being registered with the relevant law society.
- Subsection (2)(g) refers to training and learning requirements, such as continuous personal development, to remain in the profession.
- Subsection (2)(h) is information on how to meet the training and learning requirements, for example information on the educational providers, either online or in person, of subsection (2)(g).
- Subsection (2)(i) refers to any fees set by the regulators, such as registration renewal fees. This does not require a regulator to publish any other costs which the individual or professional may incur elsewhere and are set by others that are not the regulators themselves.
- Subsection (2)(j) provides a delegated power for the appropriate national authority to make secondary legislation that specifies additional information for regulators to publish. The definition of an appropriate national authority is provided in clause 14. The appropriate national authority could be the Business Secretary or the Lord Chancellor or ministers from the devolved administrations.
- Subsection (3) requires regulators who do not have the entry and practice requirements set out in subsection (2) to state this on their websites.

- Subsection (4) provides that, where there are multiple regulators for a profession, the duty of a regulator to publish information on how to enter or remain in the profession can be fulfilled by only one of the regulators so long as the other regulators are identified on the website of the regulator that is fulfilling this duty. This applies to all the information specified in subsections 2(a) to 2(j). Subsection (4), therefore, allows regulators to agree amongst themselves who publishes what of the specified information. The regulators may come together and agree that one of them publishes information specified under subsections 2(a) to 2(j), and identifies on their website the other regulators. Or, the regulators may agree that each of the regulators publishes the information relevant only to their own regulatory function, and states where they do not hold the specified information that is outside of their own regulatory function.
- Subsections (5) and (6) acknowledge that a regulator carries out its regulatory functions within the part or parts of the UK it has responsibility for. Therefore, a regulator does not have to fulfil the duty to publish information on requirements to practise for regulatory functions outside of their part, or parts, of the UK.
- Subsection (7) refers to the regulatory functions of the regulator of a regulated profession referenced in subsection 8(1).

Clause 9: Duty of regulator to provide information to regulator in another part of UK

- Clause 9 places a duty on regulators to provide relevant information about individuals to their counterpart regulators in another part of the UK (if such a regulator exists), where requested. If a regulator operated UK-wide, they would not have any obligations under this clause.
- Subsection (1) specifies the scenario in which this duty applies, i.e., where an individual entitled to practise a regulated profession in one part of the UK is seeking to practise a corresponding regulated profession in another part of the UK.
- Subsection (2) stipulates the conditions that must be met for information sharing to occur between regulators of corresponding regulated professions.
 - Subsection (2)(a) sets out that a regulator is only required to share information if the information is held by them at the point of request. For example, the duty would not apply to a statutory oversight regulator such as the Financial Reporting Council, if that body did not hold the relevant requested information.
 - Subsection (2)(b) sets out that the information must relate only to a named individual.
 - Subsection (2)(c) sets out that the information must only be shared with the counterpart regulator if it is requested by (i) a counterpart regulator, or (ii) the individual in question.
 - Subsection (2)(d) sets out that the information must only be shared if it is required by the regulator which has requested it for the purposes of determining that individual's entitlement to practise.
- Only once the conditions in subsection (2) are met will information-sharing be required under clause 9. If any of the conditions are not met, the duty to share information will not apply to a regulator.
- Subsection (3) provides that disclosing information which is required to be shared does not breach confidentiality obligations or other restrictions on disclosure that are placed on the regulator.
- Subsection (4) explains that no provision in this clause requires information to be disclosed where to do so would breach data protection legislation, as defined in section 3(9) of the Data Protection Act 2018.

- Subsection (5) explains what is meant by the term "corresponding regulated profession" as used in this clause. For the purposes of this clause, this means a regulated profession in one part of the UK that ordinarily consists of activity that is the same as, or substantially corresponds to, activity that ordinarily comprises the practice of the regulated profession in the other 'relevant' part of the UK.

BEIS
September 2021