

Clare Haughey MSP
Convener
Health, Social Care and Sport Committee
Scottish Parliament
Edinburgh
EH99 1SP

19 March 2024

Dear Convener,

The Recognition of Professional Qualifications (Miscellaneous Provisions) (EU Exit) Regulations 2019; The Recognition of Professional Qualifications (EFTA States) (Miscellaneous Amendments) (EU Exit) Regulations 2019; The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020; The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendment etc.) (EU Exit) Regulations 2020; The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2022

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

The Scottish Parliament agreed on the dates below that it was content for Scottish Ministers to give their consent to the UK Statutory Instruments (SI) listed below, including Scottish devolved matters, as set out in the relevant notifications to the Parliament:

1. 08/10/2019 - The Recognition of Professional Qualifications (Miscellaneous Provisions) (EU Exit) Regulations 2019
2. 08/10/2019 - The Recognition of Professional Qualifications (EFTA States) (Miscellaneous Amendments) (EU Exit) Regulations 2019
3. 22/09/2020 - The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020
4. 22/09/2020 – The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendments etc.) (EU Exit) Regulations 2020
5. 18/01/22 – The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2022

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- 1. The Recognition of Professional Qualifications (Miscellaneous Provisions) (EU Exit) Regulations 2019**
- 2. The Recognition of Professional Qualifications (EFTA States) (Miscellaneous Amendments) (EU Exit) Regulations 2019**

These two SIs were notified by Scottish Ministers to the Scottish Parliament but were subsequently withdrawn due to the revised UK-EU Withdrawal agreement. They were replaced by SI 3 and SI 4 below to reflect the terms of the revised agreement.

- 3. The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020**
- 4. The European Qualifications (Health and Social Care Professions) (EFTA States) (Amendments etc.) (EU Exit) Regulations 2020**

For these SIs, the content varies in some respects from the original proposal but the variation is not so significant as to need any further process. The notification set out the powers which were proposed to be used: section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (“EUWA”) to correct previous errors in EU exit legislation and to update references from “exit day” to “IP completion day”.

However, when the final SI was laid, in addition to the powers listed in the notification, both SIs introduced provision using the following powers: section 2(2) of the European Communities Act 1972 (“ECA”), sections 12, 14 and 41(1) of, and paragraph 12 of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020 (“EUWAA”).

For the third SI, powers in section 2(2) of the ECA are used to make Part 2 of this SI (amendment to the European Union (Recognition of Professional Qualifications) Regulations 2015.) As set out in the notification there was a requirement to correct an original transposition error in those Regulations.

EUWAA powers are used to give EEA EFTA and Swiss citizens rights to secure recognition of their professional qualifications as set out in the notification.

The fourth SI listed above is also made using the powers in section 66(1) and (2) of the Children and Social Work Act 2017. These powers are used to remove obsolete references to social work and social workers, in relation to the Health and Care Professions Council’s previous responsibility to regulate that profession in England. This responsibility transferred to Social Work England on 1 December 2019. This does not apply to Scotland.

In addition, for the fourth SI, EUWAA and ECA powers were used at regulations 2-19 to make amendments made to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (“the 2019 Regulations”) and at regulation 20 to amend the European Qualifications (Pharmacists) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2019 (“the 2019 N. Ireland Regulations”) to implement the Swiss citizens’ rights agreement and the EEA EFTA citizens’ rights agreement.

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5. The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2022

For the fifth SI listed above, I can confirm that the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2022 was made on 26th January 2022, under section 8(1) of, and paragraph 21 of schedule 7 to the European Union (Withdrawal) Act 2018 and section 12(1) and (3) of the European Union (Withdrawal Agreement) Act 2020. **I confirm this SI is consistent with the consent granted.**



NEIL GRAY

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Cc: Stuart McMillan MSP, Convener, Delegated Powers & Law Reform Committee

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