

EXPLANATORY MEMORANDUM TO
THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS (AMENDMENT
ETC.) (EU EXIT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Act.

2. Purpose of the instrument

2.1 The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2018 amends the European Union (Recognition of Professional Qualification) Regulations 2015 (“the 2015 Regulations”), revokes the effect of the European Communities (Recognition of Professional Qualifications) Regulations 2007 (“the 2007 Regulations”) in relation to Switzerland, and makes transitional and savings provisions, in reliance on the powers conferred by section 8(1) and paragraph 21 of schedule 7 to, the European Union (Withdrawal) Act 2018.

2.2 Under the same powers this instrument will also make transitional and savings provisions to legislation concerning school teachers.

2.3 These changes are being made to address deficiencies arising as a consequence of the United Kingdom’s (UK’s) withdrawal from the European Union (EU).

2.4 In addition, this instrument will update schedules in the 2015 Regulations in reliance on powers in section 2(2) of the European Communities Act 1972.

2.5 In addition, this instrument will make minor amendments to legislation concerning school teachers, in reliance on the powers in section 132 of the Education Act 2002.

Explanations

What did any relevant EU law do before exit day?

2.6 The purpose of the European Union Directive 2005/36/EC on the recognition of professional qualifications (“the Directive”) is to facilitate the Treaty rights contained in the Treaty on the Functioning of the European Union (TFEU), concerning free movement of persons and services and freedom of establishment. The Directive also applies to the EEA EFTA states and Switzerland by virtue of it being annexed to the EEA Agreement and Swiss Free Movement of Persons Agreement¹. The Directive sets out a reciprocal framework of rules for recognition of professional qualifications which enables European Economic Area (EEA) and Swiss nationals to have their professional qualifications recognised and gain access to the regulated profession in which they are qualified in another EEA State or Switzerland, other than the state in which the qualification was obtained. It also provides rules for the temporary and occasional provision of services which allows EEA and Swiss nationals to provide services in regulated professions on a temporary and occasional basis in an EEA state

¹ Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons

or Switzerland whilst remaining established in their home state. Please see paragraphs 7.4 to 7.8 for more detail.

Why is it being changed?

- 2.7 Following the UK's exit from the EU, the Directive will no longer apply to the UK, nor will the UK be part of the EU single market or be bound to facilitate the TFEU Treaty rights described above. Therefore, the domestic legislation implementing the Directive, including the 2007 Regulations (which apply to Switzerland) and the 2015 Regulations (which apply to the EEA), will not operate effectively after the exit day. Some parts of the Regulations will be inoperable as a consequence of exit, and other parts will no longer be appropriate to retain given that they are based on reciprocal relationships within the EU, and under the EEA agreement and Swiss Free Movement of Persons Agreement, which the UK is no longer part of.
- 2.8 The Government wishes to retain some of the framework of recognition of professional qualifications, to continue to help meet workforce demands as well as provide clarity and certainty to businesses and professionals.
- 2.9 Accordingly, this instrument revokes the effect of the 2007 Regulations in respect of Switzerland and amends the 2015 Regulations to ensure that a system of recognition of professional qualifications continues and that individuals arriving in the UK with EEA or Swiss qualifications after the exit day will have a means to seek recognition of their qualifications. This is intended to help to maintain workforce supply for businesses and key public services after the UK leaves the EU.

What will it do now?

- 2.10 The 2015 Regulations, as amended by this instrument ("the amended 2015 Regulations"), will retain a general system for recognition where UK regulators will be required to recognise EEA and Swiss qualifications which are of an equivalent standard to UK qualifications in scope, content and level.
- 2.11 Deficiencies in the 2015 Regulations will be amended so that the system that is being retained can still function effectively and professionals will retain a route for recognition of their professional qualification.
- 2.12 The amended 2015 Regulations will no longer include obligations on regulators that are primarily based on facilitating Treaty rights such as compensation measures, partial access and temporary and occasional provision of services. However, it will leave regulators with the discretion to decide how to treat non-equivalent EEA or Swiss qualifications.
- 2.13 The amended 2015 Regulations will also, in its transitional and savings provisions, protect recognition decisions already made, allow applications which have been made before exit to be concluded under the same rules as far as possible, and allow individuals to complete temporary and occasional service provision. This will provide certainty for individuals with applications or decisions under the 2007 or 2015 Regulations.
- 2.14 This instrument will make similar transitional and savings provisions for school teachers.
- 2.15 This instrument will make minor amendments to legislation concerning obsolete provisions in relation to school teachers and will update schedules in the 2015 Regulations.

- 2.16 Certain health and care professions and farriers will no longer be in the scope of the amended 2015 Regulations. These professions will now be addressed in sector specific legislation.
- 2.17 A detailed explanation of the changes being made are outlined in paragraphs 7.9 – 7.38.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland, except in relation to minor consequential amendments to legislation concerning school teachers which apply only to England.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 2(2) of the European Communities Act 1972, and section 24 of the European Union (Withdrawal) Act 2018) and the territorial application of this instrument is not limited either by the Act or the instrument. The powers under which the minor consequential amendments are being made to legislation concerning school teachers cover England and Wales only (see section 207 of the Education Act 2002).

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the UK, except in relation to the consequential amendments to the legislation concerning school teachers in schedule 2 where the extent is England and Wales.
- 4.2 The territorial application of this instrument is the UK, except in relation to the consequential amendments to the legislation concerning school teachers in schedule 2 where it applies to England.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy, Richard Harrington has made the following statement regarding Human Rights:
- 5.2 “In my view the provisions of the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2018 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The purpose of the Directive is to facilitate the free movement of persons and services and freedom of establishment, which it does by setting out rules for the recognition of professional qualifications which enable EEA and Swiss nationals to have their professional qualifications recognised and gain access to regulated professions in an EEA state or Switzerland, other than that in which their qualification was obtained. It is intended to allow individual professionals to market their skills in other EEA states and Switzerland on a temporary or established basis.

- 6.2 The Directive applies to most regulated professions apart from those which benefit from other specific arrangements directly related to recognition of professional qualifications in a separate instrument of EU law (with the exception of lawyers who in some circumstances are subject to both the Directive and other EU legislation).
- 6.3 The Directive applies to the EEA and Switzerland. The Directive applies to the EEA EFTA states and Switzerland by virtue of it being annexed to the EEA Agreement and Swiss Free Movement of Persons Agreement.
- 6.4 The Directive is implemented in the UK in respect of the EEA by the 2015 Regulations. An earlier version of the Directive was originally implemented by the 2007 Regulations which have since been revoked by the 2015 Regulations except as they apply to Switzerland.
- 6.5 This instrument amends the 2015 Regulations and revokes the effect of the 2007 Regulations in respect of Switzerland, in order to ensure that the amended Regulations can operate effectively post-exit and to correct deficiencies which have arisen as a consequence of the UK leaving the EU.

7. Policy background

What Is Being Done and Why

- 7.1 Whilst the Government is seeking a comprehensive deal with the EU on services, including the mutual recognition of professional qualifications, a responsible Government must prepare for all eventualities, including the unlikely event of a ‘no-deal’ scenario.
- 7.2 When the UK leaves the EU, the Directive will no longer apply to the UK. However, the European Union (Withdrawal) Act 2018 will retain EU-derived domestic legislation. This includes both the 2007 Regulations as they apply to Switzerland, and the 2015 Regulations which apply to the EEA. As the UK will no longer be part of the EU, both sets of Regulations will cease to operate effectively and need to be amended to correct deficiencies arising from the UK’s withdrawal from the EU. This includes amending the systems of recognition so that they will continue to work effectively, and revoking provisions that no longer work or that rely primarily on the reciprocal relationships underpinning the Directive that are no longer appropriate to retain once we leave the EU, including preferential treatment of EEA and Swiss nationals.
- 7.3 Transitional and savings provisions are also being made under the powers in the EU (Withdrawal) Act 2018 to protect individuals who have already had a decision, are in the process of having a decision made, or are providing services, under the 2007 Regulations, 2015 Regulations and legislation concerning school teachers.
- 7.4 This instrument applies to the recognition of professional qualifications which is a transferred matter for Northern Ireland under the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day absent a Northern Ireland Executive. With exit day less than one year away, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing. UK

Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.

The Current System

- 7.5 As outlined in paragraphs 2.6, the Directive provides a framework of rules which enables EEA and Swiss nationals to have their professional qualifications recognised for establishment purposes and gain access to regulated professions in other EEA states or Switzerland (other than the state in which the qualification was obtained) under the same conditions as nationals. It also provides a system where EEA and Swiss nationals can, with minimal barriers, provide temporary and occasional services in regulated professions in an EEA state or Switzerland, other than their home state.
- 7.6 The Directive also includes provisions for the recognition of third country qualifications held by EEA or Swiss nationals which have already been recognised in another EEA or Swiss state provided experience requirements are met.
- 7.7 The Directive contains a number of routes to recognition for establishment purposes, including: a general system which compares the equivalence of qualifications and can offer compensation measures or partial access if the qualifications are not comparable; automatic recognition on the basis of coordination of minimum training conditions; automatic recognition on the basis of professional experience; automatic recognition on the basis of common training frameworks; and the European Professional Card (EPC), an electronic certificate which facilitates recognition procedures for the most mobile professions.
- 7.8 The Directive includes provisions for temporary and occasional provision of services which allows nationals of an EEA state or Switzerland to work temporarily in a regulated profession in another EEA state or Switzerland whilst remaining professionally established in their home state, with minimal administrative requirements. It is facilitated by cooperation between competent authorities. Individuals remain regulated in their home state and also bound by professional conduct rules in the state in which they are providing services.
- 7.9 Parts of the current version of the Directive are implemented in the UK by the 2015 Regulations. They implement; the general system, automatic recognition on the basis of professional experience, automatic recognition on the basis coordination of minimum training conditions, and the EPC. Parts of an earlier version of the Directive was implemented by the 2007 Regulations which have since been revoked except as in relation to the Switzerland. These are supplemented by sector-specific legislation for professions which benefit from automatic recognition on the basis of coordination of minimum training conditions.

What will change

Scope

- 7.10 This instrument will revoke the effect of the 2007 Regulations in relation to Switzerland. Swiss qualifications will be included in the scope of the amended 2015 Regulations and dealt with in future on the same basis as EEA qualifications.
- 7.11 The provisions of the 2007 and 2015 Regulations apply to only Swiss and EEA nationals (respectively) or any persons with a right to be treated as such. Currently, eligibility is primarily based on an applicant's nationality instead of where the

qualification was gained. Once the UK leaves the EU it will no longer be appropriate to retain preferential treatment for EEA and Swiss nationals and therefore eligibility will be based solely on whether an individual holds an EEA or Swiss qualification.

- 7.12 Third country qualifications held by EEA or Swiss nationals will no longer be in scope of the amended 2015 Regulations as it would no longer be appropriate to differentiate between holders of the same third country qualifications on the basis of their nationality or if it had already been recognised somewhere else in the EEA or in Switzerland.

The general system

- 7.13 Currently, if a qualification does not benefit from one of the automatic recognition routes or the EPC, the general system applies. The general system obliges regulators to consider the equivalence of the applicant's qualification to the same or similar UK qualifications for a given regulated profession. If the qualifications are equivalent, recognition and access to the profession are granted. If there are substantial differences in the qualifications, the regulator must consider offering compensation measures to make up any differences in the qualifications. For EEA member states (this does not apply to Switzerland) if the differences are so substantial that it would equate to essentially requalifying, then the regulator must consider whether partial access, which enables individuals to practice certain aspects of a regulated profession, is feasible. Only if neither compensation measure nor partial access are feasible can the regulator refuse to recognise the qualification and not permit access to the profession.
- 7.14 The amended 2015 Regulations retain a general system for the recognition of professional qualifications based on equivalence of qualifications. Regulators will be obligated to continue to consider applications for recognition from the holders of EEA and Swiss qualifications but will only be obligated to grant recognition to qualifications that are comparable to UK qualification requirements and standards. An applicant's qualification will not be considered comparable to UK qualifications if the level of qualification is lower than UK standards, the qualification is substantially different in knowledge, skills and competencies, or the regulated profession in the UK comprises one or more regulated professional activities which do not exist in the country in which they are qualified in practice.
- 7.15 Under the provisions in the 2007 and 2015 Regulations, it is the responsibility of the Member State where the professional is currently registered to decide the level of the qualification of the applicant. Therefore, under 2007 and 2015 Regulations, the UK competent authority considering the applicant cannot dispute this level. Outside of the context of the EU, it is no longer appropriate to allow the EU competent authorities to decide the level of the qualification for the purpose of recognition in the UK. Instead the UK competent authority will no longer be required to accept the level of qualification certified by another Member State.
- 7.16 Any obligation on regulators to offer compensation measures or partial access because of substantial difference in qualifications are removed from the amended 2015 Regulations. These provisions rely on reciprocal relationships with the EEA (for compensation measures and partial access) and Switzerland (for compensation measures) and facilitate rights of free movement of persons and services and freedom of establishment which will no longer be appropriate to facilitate once the UK leaves the EU.

- 7.17 To retain obligatory compensation measures would grant a high level of market access to applicants, which is no longer appropriate once the UK leaves the EU. This will not prevent regulators making their own arrangements in relation to compensation measures if they choose to, and if they have their own powers to be able to do so
- 7.18 Similarly, retaining partial access (the ability to practice part of a regulated profession) would provide preferential access to regulated professions for individuals with EEA qualifications (this does not apply in relation to Switzerland), including over UK qualified professionals, who would need to be qualified to practice in all parts of the profession to have access to it. As stated above regulators will still have discretion in relation to how they deal with non-equivalent qualifications.

Automatic recognition on the basis on coordination of minimum training conditions

- 7.19 This instrument does not make provision in respect to the system of automatic recognition on the basis of coordination of minimum training conditions. This system applies to; doctors, nurses, midwives, dental practitioners, pharmacists, veterinary surgeons and architects. This is because it was not implemented by the 2007 or 2015 Regulations but was implemented by separate sector specific legislation.

Automatic recognition on the basis of professional experience or common training frameworks

- 7.20 This instrument does make provision for two other automatic recognition systems. Automatic recognition on the basis of professional experience is implemented in both the 2007 and 2015 Regulations. This recognition route only applies to the profession of farriers in the UK.
- 7.21 There is also automatic recognition on the basis of common training frameworks, which is implemented in the 2015 Regulations. This route is not utilised within the EEA currently, so therefore is not used within the UK.
- 7.22 The provisions for both these routes of recognition will be revoked by this instrument. Given we are no longer part of the EU, automatic recognition on the basis of professional experience is no longer appropriate to retain as relies on the reciprocal relationships with the EEA and Switzerland.
- 7.23 Farriers will not be in scope of the amended 2015 Regulations and separate provision will be made for farriers in England, Wales and Scotland under a Statutory Instrument led by the Department of Environment, Food and Rural Affairs. Farriery in Northern Ireland is not currently regulated.
- 7.24 Automatic recognition on the basis of common training frameworks will be revoked as it is not used currently and therefore redundant, but also because it would not be appropriate to retain once the UK leaves the EU.

European Professional Card

- 7.25 The European Professional Card (EPC) is an electronic certificate intended to facilitate recognition procedures for the most mobile professions. Currently it applies to nurses, pharmacists, mountain guides, estate agents and physiotherapists, but is not utilised widely across the EEA and does not apply in relation to Switzerland. If the UK leaves the EU without a withdrawal agreement, the UK will immediately lose access to the online “Internal Market Information” (IMI) system (further details in para 7.27) which facilitates the EPC, thus losing the ability to process EPC

applications. Given that the system will no longer be available to the UK, this instrument will revoke this system and UK regulators will process applications under the applicable general system or sector specific legislation (in the case of nurses, pharmacists and physiotherapists).

Provision of services on a temporary and occasional basis

- 7.26 In addition to routes for recognition of professional qualifications for establishment purposes, the 2007 and 2015 Regulations also include provisions which facilitate and set out rules for the temporary and occasional provision of service. This allows Swiss and EEA professionals to move to and work in the UK in a regulated profession on a temporary basis whilst they remain established in their home state. They can be required by regulators to supply a declaration in advance of their service provision, but any registration requirements must be automatic, and fees cannot be charged.
- 7.27 This instrument revokes the provisions for temporary and occasional service provision because they rely on reciprocal arrangements with the EEA and Switzerland designed to facilitate free movement of persons and services and allow a high level of market access with limited regulatory oversight, which is no longer appropriate once the UK leaves the EU. Accordingly, there will be no longer be an obligation on regulators to facilitate this.

IMI and Alert mechanism

- 7.28 The Internal Market Information system (IMI) is an online network via which information can be shared and applies only to the EEA. This enables regulators across the EEA to exchange information on applicants and qualifications, and to notify the other states of professional and criminal sanctions. The 2015 Regulations require that regulators use the IMI system to process applications and exchange information. As IMI is a European Commission service, the UK will no longer have access to it when the UK leaves the EU and will not be able to process applications, even unilaterally, using this service. Accordingly, provisions that refer to IMI are revoked by this instrument. Instead, regulators will be encouraged to communicate voluntarily with other EEA and Swiss regulators by alternative means. However, if they are unable to secure cooperation, the amended 2015 Regulations provide that the responsibility for obtaining all relevant documents required for applications falls to the applicant. This will ensure that the general system for recognition can still function thus correcting deficiencies arising from exit.
- 7.29 The Alert mechanism enables regulators to exchange information with other Member States and/or the Commission, regarding information about a professional whose professional activities have been restricted or prohibited (even on a temporary basis). This mechanism will be revoked, as it is underpinned by the EU's IMI system which the UK will no longer have access to. Instead regulators will be able to request documents confirming the applicant's fitness to practice and professional standing.
- 7.30 The amended 2015 Regulations will continue to allow UK regulators to provide information to the relevant EEA State and/or the EU Commission regarding disciplinary or criminal sanctions taken against professionals
- 7.31 The 2015 Regulations allow professionals to appeal alerts made regarding them. Transitional and saving provisions in the amended 2015 Regulations, will provide a route for appealing alerts issued before exit day. These provisions will obligate regulators to notify the EU Commission that the alert is subject to proceedings by the

professional concerned. The EU Commission would have the power to amend or remove the alert, if necessary, on IMI.

Transitional and Saving provisions

- 7.32 This instrument provides transitional and saving provisions to ensure certainty to individuals who have had a recognition decision, have made an application for a recognition decision for establishment purposes, or have made a declaration in respect of temporary and occasional service provision under either the 2007 or 2015 Regulations before exit day.
- 7.33 For individuals who have received a recognition decision for the purposes of establishment, under either the 2007 or 2015 Regulations, before exit day, those decisions will be protected and remain valid post exit.
- 7.34 Individuals who have made an application to have their qualifications recognised for the purposes of establishment under either the 2007 or 2015 Regulations before exit day, but have not yet received a decision, will be permitted to complete their application under the pre-exit rules (as far as possible given the limits regarding access to IMI and regulator cooperation). If they receive a positive recognition decision, they will also to have that decision protected so that it remains valid post-exit.
- 7.35 Individuals who have made declarations in relation to the provision of temporary and occasional services before exit day will be permitted to complete their service provision within a year from when they made their declaration. They will be unable to renew their declaration past this time.

Other changes

- 7.36 Professions that up until exit, have fallen into the system of automatic recognition on the basis of coordination of minimum training conditions (Doctors, Nurses, Midwives, Dental Practitioners, Pharmacists, Veterinary surgeons and Architects) will continue to be dealt with under separate provision made by the Department of Health and Social Care, the Department of Environment, Food and Rural Affairs, and the Ministry for Housing, Communities and Local Government respectively.
- 7.37 Additionally, separate provision for the ongoing recognition of professional qualifications will be made by the Department of Health and Social Care for health and care professions whose routes for recognition are governed by the 2015 Regulations but which will no longer be in scope of the amended 2015 Regulations.
- 7.38 As stated above in 7.19 and 7.22 farriers will not be in scope of the amended 2015 Regulations and separate provision will be made for farriers in England, Wales and Scotland under a Statutory Instrument led by the Department for Environment, Food and Rural Affairs.
- 7.39 This Instrument also includes minor amendments to legislation concerning school teachers and updates schedules in the 2015 Regulations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively other deficiencies arising from the withdrawal of the United Kingdom

from the European Union. This instrument is also made under the powers in paragraph 21 of Schedule 7 of the EU (Withdrawal) Act 2018. Further, this instrument is made under the powers of section 2(2) of Schedule of the European Communities Act 1972 to make minor corrections to information that is no longer accurate.

- 8.2 In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- 8.3 Alongside the EU (Withdrawal) Act 2018 powers, the instrument is also being made under powers under section 132 of the Education Act 2002.

9. Consolidation

- 9.1 This instrument does not make any consolidation of other documents.

10. Consultation outcome

- 10.1 Consultation between Devolved Administration officials and Government officials, supported by Government Legal Advisers, took the form of regular meetings and engagement specific to the amendments made by this instrument, beginning in February 2018. This consultation has centred around technical discussions concerning the proposed amendments to the Regulations, and how the policy approach and proposed amendments could impact service provision in devolved nations, and the regulation of professions in areas where this devolved.
- 10.2 Devolved Administrations have confirmed their agreement for UK Parliament to lay this legislation UK wide. This has been sought under the terms of the Intergovernmental Agreement, as this instrument will make provisions that could be made by the Devolved Administrations in exercise of their powers under the EU (Withdrawal) Act 2018.

11. Guidance

- 11.1 In 2015, the Government published guidance for regulatory bodies of regulated professions. It set out general guidance on the obligations placed upon regulatory bodies by the Directive.
- 11.2 In the scenario where the UK leaves the EU on 29 March 2019 without a formal agreement with the EU, the published guidance will be updated to reflect the changes that are made to the 2007 and 2015 Regulations by this instrument.

12. Impact

- 12.1 There is no significant impact on businesses, charities or voluntary bodies. These legislative amendments are intended to allow the continued recognition of holders of EEA and Swiss qualifications and thus help to maintain UK workforce supply for businesses and public services.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the equivalent annual direct cost to business falls below the £5m threshold as detailed in the Business Impact Target (BIT). However, a De Minimis assessment has been carried out and has concluded that only a limited sector is affected by the substantial changes.

- 12.4 UK regulators may incur costs if they decide to change their application procedures for EEA and Swiss qualifications, due to exercising greater control over the process, such as whether and how to offer compensation measures (as set out in section 7.15 and 7.16). Since some UK regulators are government agencies, this may be a direct cost to the government if these changes are made.
- 12.5 No, or very limited, direct impacts are expected for businesses. If regulators do incur a cost, this may be transferred via increased cost of applications to UK businesses supporting the applications of holders of EEA and Swiss qualifications.
- 12.6 It is also possible that, if changes made to the recognition application procedure make access to a profession more difficult, there could be an impact on the labour supply of professionals, which would have an impact on both businesses and public services. However, the decision to make the change is with the regulator and therefore there is an expectation that this would also only be made if there was a perceived benefit.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. Following the impact section (Part 12), there is no evidence to suggest there will be a disproportionate impact on small businesses compared to larger businesses. There is no direct cost to small businesses as a result of this legislation.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 49 people), the approach taken is to produce guidance for professionals and businesses to explain the content of these amended Regulations. This will be published in due course.

14. Monitoring & review

- 14.1 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

- 15.1 Laura Riley at the Department for Business, Energy and Industrial Strategy. Telephone: 020 7215 3968 or email: laura.riley@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Anthony Miller, Deputy Director for Services and Digital, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Richard Harrington, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy, can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|---|--|
| Sifting | Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7 | Ministers of the Crown exercising clauses 8(1), 9 and 23(1) to make a Negative SI | Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/ESIC |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Ministers of the Crown exercising clauses 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Ministers of the Crown exercising clauses 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | Explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Ministers of the Crown exercising clauses 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010. |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Ministers of the Crown exercising clauses 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs | Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

1.1 Richard Harrington, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

1.2 “In my view the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2018 does no more than is appropriate.”

1.3 This is the case because the instrument makes only changes necessary to address deficiencies arising from the withdrawal of the United Kingdom from the European Union in a scenario in which the UK leaves the EU without an agreement.

2. Good reasons

2.1 Richard Harrington, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

2.2 “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

2.3 This is the case because the instrument makes amendments to UK legislation to correct deficiencies and ensure an operable system for recognition of professional qualifications in a scenario in which the UK leaves the EU without an agreement. Furthermore, in a scenario where the UK leaves the EU without an agreement, the Government will wish to ensure UK businesses and public services can continue to access skilled professionals.

3. Equalities

3.1 Richard Harrington, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy has made the following statement(s):

3.2 “The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

3.3 Richard Harrington, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

3.4 “In relation to the instrument, I have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010. This Act does not extend to Northern Ireland”

4. Explanations

4.1 The explanations statement has been made in paragraph 2 of the main body of this explanatory memorandum.