



Department for
Business, Energy
& Industrial Strategy

TECHNICAL REPORT ON THE POST- IMPLEMENTATION REVIEW OF THE EUROPEAN UNION (RECOGNITION OF PROFESSIONAL QUALIFICATIONS) REGULATIONS 2015

Contents

Introduction	3
Background.....	3
Scope of the Post-Implementation Review (PIR)	4
Research and Analysis	4
Have the Original Objectives Been Achieved?	5
Annex A: Post-Implementation Review	6

Introduction

1. This technical document provides a review of the European Union (Recognition of Professional Qualifications) Regulations 2015 (“the Regulations”). It gives an overview of the Regulations and then continues with the Post-Implementation Review (“PIR”).
2. This paper and the associated PIR (Annex A) set out evidence on the effectiveness of the Regulations.

Background

3. The purpose of these regulations was to revoke and replace the European Communities (Recognition of Professional Qualifications) Regulations 2007 (“the 2007 Regulations”) (except in relation to Switzerland) and implement Directive 2005/36/EU on the recognition of professional qualifications (“the 2005 Directive”) as amended by Directive 2013/55/EU (“the amending Directive”).
4. Pursuant to Article 3 of the amending Directive, Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with the amending Directive by 18 January 2016. At this time, the United Kingdom (“UK”) was a Member State of the European Union (“EU”) and so the amending Directive was transposed into UK law by the 2015 Regulations, which came into force on 18 January 2016.¹
5. The 2005 Directive aimed to facilitate the free movement of regulated professionals and was intended to allow individual professionals to market their skills in other Member States on a temporary or established basis. The 2005 Directive repealed and replaced the existing EU Directives on the recognition of qualifications, in many cases with very similar provisions. The 2005 Directive also introduced new arrangements for migrants wanting to provide services on a “temporary and occasional” basis.
6. The 2005 Directive was previously implemented by the 2007 Regulations. Following a public consultation on the transposition of the amending Directive, which ran from 14 August 2014 to 6 November 2014, the Government decided to revoke and replace the 2007 Regulations with the Regulations.
7. The amending Directive’s objective was to further deregulate and simplify the recognition process to facilitate the movement of regulated professionals between Member States. It aimed to reduce the burdens on professionals and provide them with greater access to other Member States’ labour markets. The amending Directive focused on adapting the recognition of professional qualifications to an evolving labour market, with an emphasis on the use of modern technology.
8. On 23 June 2016, the UK voted in a referendum to leave the EU, and subsequently left the EU on 31 January 2020. The UK remained subject to the 2005 Directive until the

¹ The European Union (Recognition of Professional Qualifications) Regulations 2015, <https://www.legislation.gov.uk/ukxi/2015/2059/contents/made>

conclusion of the Transition Period (“TP”). Following the end of the TP on 31 December 2020, the UK is no longer subject to the 2005 Directive. In preparation for the end of the TP, BEIS amended the Regulations by way of secondary legislation² to create a new temporary system for recognition of European Economic Area (“EEA”) and Swiss professional qualifications, which came into effect at 11pm on 31 December 2020.

9. The new system retains a general system for recognition under which the UK need only recognise EEA and Swiss professional qualifications if they meet UK standards. Regulators are no longer required to meet certain obligations which facilitated EU Treaty rights. The system will continue to help meet domestic workforce demand, as well as to provide clarity and certainty to businesses and professionals working in the UK. The Government will subsequently make appropriate modifications to this system after comprehensively reviewing the international arrangements for the recognition of professional qualifications, informed by findings from The Recognition of Professional Qualifications and Regulation of Professions: Call for Evidence (“the Call for Evidence”).³

Scope of the Post-Implementation Review (PIR)

10. Given that the Regulations were substantially amended on 31 December 2020 and that the equivalent annual net direct cost to business falls below the Equivalent Annual Net Direct Cost to Businesses (EANDCB) threshold of + /- £5m, the Government considers that a light-touch approach to this review is proportionate.

Research and Analysis

11. As a light-touch approach to this PIR has been deemed appropriate, the Government has only considered existing data-sources. These include:
 - The European Commission Regulated Professions database
 - The European Commission’s report on certain new elements introduced by the 2013/55/EU Directive⁴ (“the Commission Report”).

² The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019, <https://www.legislation.gov.uk/ukxi/2019/312/contents/made> and The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020, <https://www.legislation.gov.uk/ukdsi/2020/9780348209471/note>

³ BEIS, 2020. The Call for Evidence closed on 23 October 2020. The Call for Evidence document can be found at: <https://www.gov.uk/government/consultations/recognition-of-professional-qualifications-and-regulation-of-professions-call-for-evidence>

⁴ European Commission, 2020, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of certain

The review also draws on a range of stakeholder engagement, including with Competent Authorities and professional bodies.

12. The evidence that BEIS is currently collecting in preparation for a new system for recognising professional qualifications from other countries includes:

- Responses to the BEIS Call for Evidence on the recognition of professional qualifications and regulation of professions⁵
- Stakeholder engagement
- Academic literature reviews
- Benchmarking with comparable international systems of recognition.

Have the Original Objectives Been Achieved?

13. The original intention of the Regulations was to revoke the 2007 Regulations, replace them as the vehicle for the implementation of the 2005 Directive, and give effect to the changes made to the 2005 Directive by the amending Directive. The aim of the amending Directive was to make it easier for qualified professionals to practise their profession in Member States other than their own by further deregulating and simplifying the existing recognition procedures.

14. The Regulations successfully revoked the 2007 Regulations and met the UK's obligation to transpose the 2005 Directive and the amending Directive.

15. For the purposes of facilitating free movement of regulated professionals from the EEA to the UK, the Regulations could be considered successful, though no counterfactual comparison is possible. The Regulations came into force on 18 January 2016, and between then and the end of 2019, the UK provided c. 55 000 establishment recognition decisions to EU and European Free Trade Association ("EFTA") nationals.⁶ Approximately 47 000 of these were positive, 3 000 negative and 5 000 neutral. In our engagement with stakeholders including Competent Authorities and professional bodies, feedback has indicated that the system for the mutual recognition of qualifications was broadly effective.

16. Whilst the regulations seem to have been somewhat effective for the period that the UK remained subject to EU law, the UK has now left the EU. It would no longer be

new elements introduced by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), <https://op.europa.eu/en/publication-detail/-/publication/e2c618d8-9363-11ea-aac4-01aa75ed71a1/language-en>

⁵ <https://www.gov.uk/government/consultations/recognition-of-professional-qualifications-and-regulation-of-professions-call-for-evidence>

⁶ This data is publicly available on the European Commission Regulated Professions Database and was correct on 14 December 2020. The data for 2019 and previous years may not reflect all outstanding data updates from UK Competent Authorities to NARIC or UK Government Departments.

appropriate to maintain the Regulations in the long-term as they are based on a reciprocal relationship. The Government is therefore now considering the UK's future approach.

Annex A: Post-Implementation Review

<p>Title: The European Union (Recognition of Professional Qualifications) Regulations 2015</p> <p>PIR No: BEIS038(PIR)-20-ED</p> <p>Original IA/RPC No: BIS/ER/01</p> <p>Lead department or agency: BEIS</p> <p>Other departments or agencies: Multiple</p> <p>Contact for enquiries: Elisabeth White (Elisabeth.White@beis.gov.uk; 020 7215 4269)</p>	Post Implementation Review
	Date: 04/01/2021
	Type of regulation: EU
	Type of review: Statutory
	Date measure came into force: 18/01/2016
	Recommendation: Replace
	RPC Opinion: N/A

1. What were the policy objectives of the measure?

The purpose of these Regulations was to revoke and replace the European Communities (Recognition of Professional Qualifications) Regulations 2007 (except in relation to Switzerland) and implement Directive 2005/36/EU on the recognition of professional qualifications, as amended by Directive 2013/55/EU. The Regulations implemented the amended 2005 Directive in relation to all regulated professions other than the sectoral professions.⁷

The 2005 Mutual Recognition of Professionals Qualifications Directive is concerned with regulated professions, where access to or practice of the profession is restricted to holders of national qualifications. The Directive aimed to simplify existing recognition procedures and allow individual professionals to market their skills in other Member States on a temporary or established basis. It repealed and replaced the existing seven sectoral directives, under which training conditions were harmonised in certain professions and listed qualifications made subject to automatic recognition, and the general system directives governing other regulated professions. The Directive also introduced new elements: temporary service provision, common platforms, and a single committee to replace the existing raft of committees.

The amendments made by Directive 2013/55/EU aimed to improve regulatory processes to further facilitate the movement of regulated professionals between Member States, and included: the introduction of a system of partial access, the introduction of an alert mechanism, an obligation for Competent Authorities to use online procedures, the introduction of a European Professional Card (EPC) as an additional method of recognition, and the introduction of common training principles across professions.

⁷ I.e., those which involve harmonised training with minimum training conditions being the professions of doctor, nurse, midwife, dentist, pharmacist, architect, veterinary surgeon.

Pursuant to Article 3 of the amending Directive, Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 18 January 2016.

2. What evidence has informed the PIR?

Given that these regulations were amended at the end of the Transition Period⁸ and will subsequently be replaced by a new system for recognition of qualifications gained in other countries, and that the cost to businesses of the regulations falls below the EANDCB threshold of + /- £5m, a light-touch approach for this PIR was deemed appropriate. We have used the European Commission database to analyse changes in the patterns of applications for recognition into the UK. We have also considered the European Commission's assessment of implementation of the Directives, including in a report published in May 2020⁹ which covered all Member States.

3. To what extent have the policy objectives been achieved?

The regulations successfully revoked and replaced the European Communities (Recognition of Professional Qualifications) Regulations 2007 (except in relation to Switzerland), and did what was necessary to implement Directive 2005/36/EU as amended by Directive 2013/55/EU, including making consequential changes to domestic legislation to ensure its coherence. The Regulations provide the necessary legal powers for UK Competent Authorities to recognise professional qualifications from the EEA.

While it is difficult to measure the impact of the regulations, the objectives of Directive 2005/36/EC (as amended) in terms of simplifying recognition processes and facilitating the free movement of regulated professionals appear to have been broadly met. In the period between 2016 and 2019, the UK gave ~55,000 permanent inwards recognition decisions to EU and EFTA professionals.¹⁰ Stakeholders have indicated broadly positive experiences with the system. The UK issued more recognition decisions under the Directive than any other Member State. However, there is obviously no counterfactual in making this assessment.

With regard to Directive 2013/55/EU, the Commission Report (2020) emphasised that there have been notable successes since the introduction of these measures across Member States. For example, administrative exchanges and notifying qualifications for harmonised professions have been improved by the Directive making use of the Internal Market Information (IMI) system mandatory, providing a platform for the EPC, and introducing the alert mechanism. However, the report noted several areas where improvements could be made. For example, there has only been one agreement reached on common training principles, for ski instructors, while proposals for other professions did not meet the required threshold.

⁸ The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 and The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020

⁹ European Commission, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of certain new elements introduced by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), <https://op.europa.eu/en/publication-detail/-/publication/e2c618d8-9363-11ea-aac4-01aa75ed71a1/language-en>

¹⁰ European Commission Regulated Professions Database, accessed 14 December 2020

It should also be noted that the UK has, since 2018, received three infringement notices from the EU regarding its implementation of the 2005 Directive as amended by the 2013 Directive. These notices raised issues around a few elements of non-compliance in transposition. The UK duly reviewed the relevant measures and engaged with the European Commission as required, communicating its intention to improve compliance.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed:



Date: 07/01/2021

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

The original assumption was that the Regulations would do all that was necessary to revoke and replace the existing regulations and implement the Directive as amended, including making consequential changes to domestic legislation to ensure its coherence.

On the quantification of costs, it was assumed that costs which arise for Competent Authorities from processing a higher number of applications were not included. These are indirect costs which would have been a result of voluntary action by individuals. It was assumed that such costs would likely be covered by the administration fees charged by most Competent Authorities for processing applications. Furthermore, those costs would likely fall on professionals who were based outside the UK at the time of the application and as such any UK-specific impact would be minimal.

In addition to accounting for one-off transition costs and ongoing additional administrative duties and costs, it was also assumed that costs may increase due to an increase in the complexity of the cases handled by Competent Authorities.

5. Were there any unintended consequences?

Between 2016 and 2017, the number of establishment/recognition decisions made by the UK under the Directive to EEA States and Switzerland decreased by 42%.¹¹ However, it is possible that the 2016 referendum on EU membership played a larger role in this than changes to the regulations underpinning the recognition system. As BEIS is now reviewing the recognition of professional qualifications with a view to creating a new system for the long term, we do not feel it is proportionate to examine this further at this time.

6. Has the evidence identified any opportunities for reducing the burden on business?

Stakeholders have raised concerns that there may be individuals who have been barred from practising in their home state without an alert being issued.

The Commission Report (2020) noted that some procedural requirements are still burdensome for applicants, despite the introduction of electronic procedures and

¹¹ Calculations based on European Commission Regulated Professions Database, accessed 17 December 2020.

cooperation by Member States, and many go beyond what is required in the Directive.¹² It also pointed to national Points of Single Contacts (PSC) as an area where improvements could be made, to ensure relevant information is available online for stakeholders to reference.

In preparation for the UK's exit from the EU, BEIS amended the 2015 Regulations by way of secondary legislation, through The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 and The Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020. The amended 2015 Regulations came into force on 31 December 2020 at 11pm, and implemented a new, temporary system of recognition, under which UK regulators need only recognise EEA and Swiss professional qualifications if they meet UK standards. The burden on regulators was reduced by removing the obligation for them to provide adaptation periods, aptitude tests or partial access, as well as removing the system which allowed for temporary and occasional provision of services.

The Government will subsequently seek to revoke these regulations and implement a new system for the recognition of qualifications gained overseas, pursuant to a comprehensive review of current arrangements, taking into account the views of businesses and other stakeholders. This includes analysis of responses to the BEIS Call for Evidence on the recognition of professional qualifications and regulation of professions, which was open between August and October 2020.¹³

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?

As the UK has now left the EU, it was not deemed appropriate to conduct a resource intensive review of other Member States' implementation. Instead, BEIS is now focusing on examining global approaches to the recognition of professional qualifications, as part of reviewing the UK's system of recognition and regulation of professions.

¹² BEIS, 2020, Explanatory Memorandum, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of certain new elements introduced by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), [http://europeanmemoranda.cabinetoffice.gov.uk/files/2020/05/Explanatory_Memorandum_-_Deposit_of_EU_document_7931_-_MRPQD_2013_Revisions_\(1\).pdf](http://europeanmemoranda.cabinetoffice.gov.uk/files/2020/05/Explanatory_Memorandum_-_Deposit_of_EU_document_7931_-_MRPQD_2013_Revisions_(1).pdf)

¹³ The Call for Evidence closed on 23 October 2020. The Call for Evidence document can be found at: <https://www.gov.uk/government/consultations/recognition-of-professional-qualifications-and-regulation-of-professions-call-for-evidence>