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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom's withdrawal from the EU requires the UK to comply with its legal obligations under EU law for the duration of the transition period. This includes transposition obligations.

Under [Directive 2005/36/EU](#) (transposed into UK law by the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)), member States are required to complete proportionality tests when regulating professions.

Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 ("the 2018 Directive") goes further and establishes a detailed framework for conducting proportionality tests before introducing new, or amending existing, legislative, regulatory or administrative provisions restricting access to, or the pursuit of, regulated professions ("a professional regulatory provision").

These Regulations implement the 2018 Directive and require the Welsh Ministers to carry out this proportionality assessment. As the UK's obligations to comply with transposition obligations only extends until the end of the implementation period, these Regulations are time-limited and will expire on IP completion day (see the definition in regulation 2).

Whilst section 5A of the European Union (Withdrawal Agreement) Act 2020 (c. 1) ("the 2020 Act") provides that the fact that anything which continues to be, or forms part of, domestic law on or after IP completion day by virtue of sections 2 to 4 of the 2018 Act has an effect immediately before IP completion day which is time-limited by reference to the implementation period does not prevent it from having an indefinite effect on and after IP completion day by virtue of sections 2 to 4, there is no requirement for these Regulations to have such an indefinite effect, and they will not therefore continue to have effect after IP completion day.

Regulation 3 sets out the scope of these Regulations. These Regulations apply to the regulated professions listed in paragraphs (1) to (3). Paragraph (4) sets out the restrictions on the scope of these Regulations in accordance with Article 2 of the 2018 Directive.

Regulation 4 requires the Welsh Ministers to carry out proportionality assessments and sets out conditions which must be met when doing so.

Regulation 5 requires Welsh Ministers to ensure that professional regulatory provisions are neither directly nor indirectly discriminatory on the basis of nationality or residence.

Regulation 6 requires a professional regulatory provision to be justified by public interest objectives. It sets out when a provision will be justified by public interest objectives and gives examples of reasons which could constitute overriding reasons in the public interest, as listed in Article 6 of the 2018 Directive.

Regulation 7 deals with the principle of proportionality and sets out considerations which must be taken into account when assessing the proportionality of a professional regulatory provision, as well as those which must be considered when relevant to the nature and content of the professional regulatory provision.

Regulation 8 requires the Welsh Ministers to also ensure compliance with the principle of proportionality when imposing specific requirements for the temporary and occasional provision of services.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 9 requires the Welsh Ministers to make information publicly available about a proposed professional regulatory provision and to consult relevant stakeholders.

Regulation 10 requires the Welsh Ministers to send a copy of the professional regulatory provision and the completed proportionality assessment to the European Commission.

Regulation 11 requires the Welsh Ministers to monitor the proportionality of a professional regulatory provision.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.