

SUMMARY NOTIFICATION TO THE SCOTTISH PARLIAMENT

Title of Instrument European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2022
Proposed laying date at Westminster 25 January 2022
Date by which Committee has been asked to respond by 20 January 2022
Power(s) under which SI is to be made section 8(1) of the European Union (Withdrawal) Act 2018 to address legislative deficiencies arising from the withdrawal of the UK from the European Union
Categorisation under SI Protocol Type 1
Purpose to correct errors within the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/593) “the EU Exit Regulations 2019” and to correct an error created by these regulations in the National Health Service (Performers List) (England) Regulations 2013 (S.I. 2013/335) (“the 2013 Performers List Regulations”).
Other information
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NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

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

Is the notification Type 1 or Type 2

Type 1

A brief overview of the SI (including reserved provision)

The SI is made using the power in section 8(1) of the European Union (Withdrawal) Act 2018 to address legislative deficiencies arising from the withdrawal of the UK from the European Union.

It makes amendments to correct errors in the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (“the 2019 Regulations”) – SI 2019/593 –and to rectify those provisions which are now unworkable or impractical following withdrawal. It does so by:

- removing UK court enforceable obligations upon health and social care professional regulators that are now impractical following withdrawal;
- removing the requirement to update the European Commission on IMI alerts (the UK no longer has access to the IMI system);
- amending erroneous references to “pharmacist” to refer instead to “dentist” to ensure that the savings provisions are correctly applied.

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The Instrument also makes amendments to the General Medical Council (Form and Content of the Registers) Regulations 2015 (“the 2015 Regulations”) by removing the redundant requirement for the register to include a list of visiting medical practitioners from relevant European States, a provision that has been removed from section 2(2) of the Medical Act 1983.

Amendments are also made to the National Health Service (Performers List) (England) Regulations 2013 (S.I. 2013/335) (“the 2013 Regulations”).

The legislation intersects with the devolved competence of the Scottish Parliament in relation to professions that have been brought into statutory regulation after devolution, including wholly-devolved regulation by bodies such as the General Dental Council.

The proposed instrument will be laid before the UK Parliament on 25 January 2022.

Details of the provisions that Scottish Ministers are being asked to consent to.

In terms of devolved interest, this instrument will:

- (i) remove the power of the courts to order UK health and care professional regulators to inform the European Commission of updates made to IMI alerts from IP completion day;
- (ii) remove the impractical requirement to update the European Commission on open IMI alerts – an explanation of what these are is set out below; and
- (iii) amend reference to ‘dental’ from ‘pharmacist’ to ensure that the savings provisions are applied to visiting EU dental practitioners instead of pharmacists.

The IMI is an EU Internal Market Information system in the area of recognition of Professional Qualifications, and it operates as an alert system. Alerts were a requirement under 2005/36/EC The Directive on Recognition of Professional Qualifications (as amended by 2013/55/EU), to notify regulators in other member states of restrictions imposed in the home state on the practice of professionals working in professions subject to statutory forms of regulation in a majority of EEA and EFTA member states.

Ultimately, these provisions remove now redundant or inoperable functions following EU withdrawal and ensure that inconsistencies are removed.

Summary of the proposals

Prior to the UK’s withdrawal from the EU, there was a need for the GMC register to identify persons registered in the list of visiting medical practitioners from relevant European states. However, this requirement was removed from section 2(2) of the Medical Act 1983. The SI will remove the now redundant references to European medical practitioners within the 2015 Regulations.

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UK courts also had the power to order UK health and care professional regulators to inform the EU of any updates to fitness to practise alerts made to the IMI system. The SI will remove the courts' power to enforce an obligation that can no longer be complied with.

In addition, two errors are contained in the 2019 Regulations, where references have been made to "pharmacy" as opposed to "dentist". The SI will correct these.

The final issue concerns the exemption – prior to EU withdrawal – of applicants holding EU qualifications being exempt from undertaking the foundation training required as part of the registration on the Dental Performers List. This is a reserved issue, but is a transitional measure requested by the regulators to re-instate this exemption for EU-qualified dentists.

Does the SI relate to a common framework or other scheme?

No. A recognition of Professional Qualifications Bill is in process. However, this SI simply corrects errors in a previous SI and revokes inoperable and impractical retained EU obligations.

Summary of stakeholder engagement/consultation

No consultation took place as it was not deemed necessary due to the technical nature of the changes.

A note of other impact assessments, (if available)

An Impact Assessment has not been prepared for this instrument because the instrument relates to the maintenance of existing regulatory standards and no significant impact on the private or voluntary sector is foreseen.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

These amendments are technical, correcting minor errors and removing inoperable and impractical obligations consequent to the EU withdrawal. They are not considered contentious.

Intended laying date (if known) of instruments likely to arise

The proposed instrument will be laid before the UK Parliament on 25 January 2022.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

Not applicable

Information about any time dependency associated with the proposal

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The SI is currently scheduled to be laid on the 25 January. The Parliament will therefore have 28 days to consider the notification, but a response before the 20 January would be helpful.

Any significant financial implications?

None.

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