

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT PROFESSIONAL QUALIFICATIONS AND
SERVICES (AMENDMENTS AND MISCELLANEOUS
PROVISIONS) (EU EXIT) REGULATIONS 2020

Tuesday 15 September 2020

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Saturday 19 September 2020

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The Committee consisted of the following Members:

Chair: Ms ANGELA EAGLE

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|---|---|
| † Allan, Lucy (<i>Telford</i>) (Con) | † Pennycook, Matthew (<i>Greenwich and Woolwich</i>) (Lab) |
| Beckett, Margaret (<i>Derby South</i>) (Lab) | Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| Cummins, Judith (<i>Bradford South</i>) (Lab) | † Smith, Royston (<i>Southampton, Itchen</i>) (Con) |
| † Farris, Laura (<i>Newbury</i>) (Con) | † Tarry, Sam (<i>Ilford South</i>) (Lab) |
| † Fletcher, Mark (<i>Bolsover</i>) (Con) | Thompson, Owen (<i>Midlothian</i>) (SNP) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Tomlinson, Michael (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Gideon, Jo (<i>Stoke-on-Trent Central</i>) (Con) | † Zahawi, Nadhim (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Green, Damian (<i>Ashford</i>) (Con) | Joseph Watt, <i>Committee Clerk</i> |
| † Henderson, Gordon (<i>Sittingbourne and Sheppey</i>) (Con) | † attended the Committee |
| † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) | |

Sixth Delegated Legislation Committee

Tuesday 15 September 2020

[Ms ANGELA EAGLE *in the Chair*]

Draft Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020

2.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Nadhim Zahawi): I beg to move,

That the Committee has considered the draft Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020.

It is a pleasure, Ms Eagle, to serve under your chairmanship. I will give a brief overview of the rationale behind the regulations, which relate to the recognition of professional qualifications and the provision of services. They form part of the Government's preparations for the end of the transition period.

As members of the Committee know, the Government have signed agreements with the EU, the three European economic area and European Free Trade Association states, and Switzerland. They contain arrangements regarding the UK's withdrawal from the EU. The agreements include provisions that protect the rights of EEA and Swiss nationals living and frontier working in the UK, and vice versa. The regulations will give effect to certain provisions in the agreements relating to the recognition of professional qualifications—or RPQ, as I will now refer to them—that are held by EEA and Swiss nationals. By doing so, the regulations will ensure that the decisions made by UK regulators to recognise the professional qualifications of EEA and Swiss nationals before the end of the transition period will be grandfathered after the end of the transition period. Such individuals will be able to continue to practise their profession in the UK. The regulations also make various changes to the domestic framework for RPQ and services, including in respect of regulations made in anticipation of EU exit, which will ensure that they function effectively after the transition period.

I can tell the Committee that professionals from the EU make a significant contribution to the public and private sectors in the United Kingdom. Between 2007 and 2016, the UK gave 148,000 recognition decisions to EU professionals. I will also remind the Committee of the background to RPQ. The mutual recognition of professional qualifications system is derived from EU law. It allows UK professionals to get their qualifications recognised in the EEA and Switzerland, and vice versa, with minimal barriers. Across the whole of the EEA and Switzerland, there are approximately 570 different professions under the system.

After the transition period, the EU system will cease to apply to the United Kingdom. Last year, in preparation for the UK leaving the EU, the Government made various RPQ EU exit regulations to amend the domestic

law that implements the current EU system for RPQ, in order to fix deficiencies caused by exit. The existing EU exit regulations include provisions that protect recognition decisions already made, allow applications for recognition submitted before exit day to be concluded after exit day, allow providers of temporary and occasional service one year from exit day to complete their service provision, and retain aspects of the recognition system to provide a route for certain EEA and Swiss qualification holders to apply for recognition of their qualifications after exit day.

I should say that the retention of part of the existing recognition system is not covered by the agreements with the EU, EEA or Switzerland, or by these new regulations, but it forms part of the Government's plans to ensure that the UK is prepared to leave the single market. The Government have decided that the system should remain in place temporarily after the transition period in the event that there are no satisfactory arrangements from the EU free trade agreement negotiations.

I shall move on to explain how the regulations will implement the RPQ provisions of the agreements to which I referred earlier. The agreements contain similar but slightly different provisions from those contained in the existing RPQ provisions. These new regulations will make amendments to EU exit regulations introduced by my Department, the Ministry of Housing, Communities and Local Government, and the Department for Environment, Food and Rural Affairs, to give full effect to the RPQ terms of the agreements.

That is because the agreements were finalised after the existing EU exit legislation was passed. The provisions in these regulations relating to the agreements will protect recognition decisions made before the end of the transition period, allow applications for recognition submitted before the end of the transition period to be concluded, ensure that UK regulators co-operate with their EEA and Swiss counterparts to facilitate the completion of applications ongoing at the end of the transition period, and ensure that professionals whose professional qualifications are recognised are treated on the same basis as UK nationals.

In respect only of Switzerland, these regulations give effect to provisions in the Swiss agreement that provide for a longer transition period for certain individuals. In particular, they will allow a further four-year period for certain Swiss nationals to apply for recognition under current EU rules, and allow certain Swiss service providers to continue to provide their services in accordance with their contract for up to five years after the end of the transition period.

The RPQ provisions of the agreements will be reciprocated by EU member states, the EEA/EFTA states and Switzerland respectively. I remind hon. Members that these regulations do not cover certain legal or health care provisions, which are being covered in separate statutory instruments.

To ensure the frameworks for RPQ and services function as intended after the transition period, these regulations will also make various other changes, which can be separated into four categories. First, retained treaty rights in respect of RPQ will be disappplied. These are overarching rights derived from the treaty on the functioning of the European Union and the EEA agreement in respect of free movement of workers, and retained

treaty rights for RPQ derived from the Swiss free movement of persons agreement. After the transition period, the default position is that these rights will become retained EU law under the European Union (Withdrawal) Act 2018. These regulations disapply these treaty rights insofar as they relate to RPQ, to ensure legal clarity about the post-transition period system for recognition of EEA and Swiss qualifications.

Secondly, a retained delegated regulation on ski instructors' qualifications and two delegated decisions that update annexes to the EU directive on RPQ will have no practical effect in the UK after the transition period. These regulations will therefore revoke them to tidy up the statute book. Thirdly, these regulations will make minor corrections to RPQ EU exit regulations and technical amendments, with references to exit day changed to IP completion day in the existing RPQ and service EU exit regulations. This will be done so that the regulations will function effectively after the end of the transition period.

Lastly, consequential amendments and a minor correction to a transposition error will be made to the 2015 EU RPQ regulations. I should point out to colleagues at this stage that the UK regulators have been consulted on an informal basis throughout the process of developing RPQ EU exit legislation and these regulations.

To conclude, I reiterate that these regulations are vital to the Government's preparations for the end of the transition period. It is imperative that they are made so that professionals and businesses are equipped to be ready for the end of the transition period. I commend these regulations to the Committee and look forward to hearing the views of hon. Members.

2.39 pm

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is an absolute pleasure to serve under your chairmanship, Ms Eagle. I thank the Minister for his comprehensive summary of the regulations. We recognise that the instrument before us is technical in nature and that its purpose is—somewhat refreshingly, I have to say, given the events of recent days—to ensure that specific provisions of the withdrawal agreement are given effect. As such, we will not seek to divide the Committee this afternoon, and I do not wish to detain Members any longer than I have to. However, I wish to put two brief points to the Minister. Hopefully he can provide his thoughts on both.

The first is a general point relating to certainty. As with so much of the secondary legislation that the Government have introduced of late, the instrument we are being asked to approve is presented in essence as a contingency piece of legislation. The Minister spoke about the temporary nature of many of the regulations and how they are given effect. However, with just 15 weeks remaining until the end of the transition period, it is becoming increasingly hard to view these regulations as such.

I know that I do not need to tell the Minister about the benefits that flow from professional qualifications, in terms of driving up standards of practice, giving confidence to UK employees and consumers, and improving contracts for workers. I know, too, that he is well aware of how many UK professionals depend on the mutual recognition of professional qualifications across the

European economic area, the implications for their jobs and livelihoods should the Government not secure an adequate replacement framework by 31 December, and the impact of such an outcome on an area in which the UK enjoys a significant comparative advantage.

However, the UK, EU and Swiss professionals affected still await more information from the Government on their vision for a future recognition framework, and their frustration at its absence cannot be overstated. With just over 100 days remaining, all they have to go on at present is the commitments set out in the legally non-binding political declaration and in the withdrawal agreement, the permanence of which, as he knows, Ministers have called into question over recent days. I do not expect the Minister to comment on ongoing negotiations, but can he today provide those professionals affected with some comfort, and confirm that the Government are intent on securing a long-term agreement in this area that will provide for their future jobs and livelihoods?

The second point relates to the involvement of those professionals in a dialogue about the replacement framework that the Government are seeking to secure. The Minister's Department launched its public consultation on the recognition of professional qualifications on 25 August, just 21 days ago. We obviously welcome the fact that consultation is taking place, but will he tell the Committee why it took so long for the Government to initiate it? That also begs the obvious question: if the Government are only now discovering what those who stand to be affected want to see negotiated to replace the current arrangements, what has shaped the Government's negotiating position in this area to date? With the consultation due to close as late as October, it is difficult not to view the exercise as little more than window dressing. I hope he can reassure me on that point.

I urge the Minister to take this opportunity to reassure professionals and businesses here in the UK and in the EU not only that the Government remain committed to securing an efficient and robust mutual recognition system that will enable our talented professionals to operate in the EEA and Switzerland, as they have done for so many years, but that their views will continue to shape what is being fought for in the negotiations.

2.43 pm

Nadhim Zahawi: I thank the shadow Minister for his support today and members of the Committee for listening so intently. Let me conclude by emphasising that the changes in these regulations are essential for precisely the reason that the hon. Member has just pointed out: the importance to the UK economy of professional services. We are committed to protecting citizens who benefit from rights under the agreements, many of whom make valuable contributions to the UK workforce, and we are absolutely committed to negotiating in good faith to ensure that we conclude a deal.

Although these regulations are mainly focused on protecting existing rights and not, obviously, future arrangements, it is important that the regulations make changes to ensure that the UK's existing EU exit regulatory framework for RPQ and services function effectively at the end of the transition period. If the rights were not

[Nadhim Zahawi]

disapplied, they could be used to undermine the provisions of the RPQ EU exit legislation, potentially leading to legal challenges.

It is worth noting that the continuation of the recognition system after the end of the transition period is a temporary measure. Obviously, the future RPQ policy will depend on the outcome of the negotiations. I can give the hon. Gentleman one guarantee: we will negotiate in good faith and want this to work, and the outcomes in this area should be a win-win for both sides.

The call for evidence that the Department is currently conducting, to which the hon. Gentleman referred, is quite important. I work with the sector all the time. I

co-chair the professional business services council, and I know how valuable that engagement is from both sides. The call for evidence is helping us both to gain insight on what our approach should be for the future recognition of professional qualifications from other countries and to consider our approach to the regulation of professions more broadly. To close, I underline once more that these regulations are a vital part of the Government's preparations for the end of transition period, and I commend them to the Committee.

Question put and agreed to.

2.46 pm

Committee rose.

