

SL(5)574 – The European Union (Regulated Professions Proportionality Assessment) (Wales) Regulations 2020

Background and Purpose

The European Union (Regulated Professions Proportionality Assessment) (Wales) Regulations 2020 ("the Regulations") are made under the powers provided to the Welsh Ministers by section 2(2) of the European Communities Act 1972 and section 58B of the Government of Wales Act 2006.

Directive 2005/36/EU transposed into UK law by the European Union (Recognition of Professional Qualifications) Regulations 2015, already imposes on the Welsh Ministers a requirement to complete proportionality tests when regulating professions. The purpose of these Regulations is to transpose into domestic law Directive (EU) 2018/958 which established a detailed framework for conducting such proportionality tests before adopting new or amending provisions relating to the regulation of professions.

These Regulations will apply to a number of professions in Wales where the Senedd has legislative competence, including qualified teachers and headteachers in a school, teachers at a further education institution, and professions regulated by the Regulation and Inspection of Social Care (Wales) Act 2016, including social workers and social care managers in Wales.

These Regulations will come into force on 30 July in line with equivalent regulations that have been made in England. The Regulations will cease to have effect on implementation period completion day, which is 31 December 2020 at 11.00 pm, as defined in the EU (Withdrawal Agreement) Act 2020.

Procedure

Negative.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements.

There are incorrect references to the legislation regarding the retention of retained saved EU law at the end of the implementation period. References are made to section 5A of the European Union (Withdrawal Agreement) Act 2020, however such a provision does not exist. Section 25(5) of the European Union (Withdrawal Agreement) Act 2020 ("the 2020 Act") inserted a new section 5A into the European Union (Withdrawal) Act 2018 ("the 2018 Act"), although section 5A is not yet in force. These incorrect references appear in the first footnote at page 5, on the second page of the Explanatory Notes and on the third page of the Explanatory Memorandum. Subsequent references in the Explanatory Notes and the Explanatory Memorandum to "sections 2, 3 and 4 of the 2020 Act" should refer to the 2018 Act as a result.



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

These Regulations are made under section 2(2) of the European Communities Act 1972 and section 58B of the Government of Wales Act 2006. These Regulations will cease to have effect on implementation period completion day, at 11.00 pm on 31 December 2020.

Government Response

Given the current circumstances regarding coronavirus, a Welsh Government response is required as soon as is reasonably practicable.

Legal Advisers

Legislation, Justice and Constitution Committee

27 July 2020



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee