

AGREEMENT

BETWEEN

THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

AND

THE SWISS CONFEDERATION

ON

RECOGNITION OF PROFESSIONAL
QUALIFICATIONS

PREAMBLE

The United Kingdom of Great Britain and Northern Ireland (“the United Kingdom”), and the Swiss Confederation (“Switzerland”), together referred to as “the Parties” or individually “the Party”;

Noting the commitment made in Article 16 of the Temporary Agreement between the United Kingdom and Switzerland on Services Mobility done at London on 14 December 2020 that the working group on recognition of professional qualifications shall pursue discussions aiming at negotiating a comprehensive agreement or arrangement between the Parties for the recognition of professional qualifications;

Recognising the importance of recognition of professional qualifications between the Parties in order to allow the effective practice of a regulated profession in their respective territory;

Reflecting the forward-looking nature of their partnership and commitment to deepen bilateral cooperation as well as the economic opportunities and the wider access to services brought about by facilitating the recognition of professional qualifications;

Noting the high level of trust and existing cooperation between the relevant authorities in each Party with regard to the regulation of certain legal professionals; and

Reaffirming the unlimited validity of decisions taken under previous arrangements to recognise an individual’s professional qualifications,

Have decided, in pursuit of the above, to conclude the following Agreement (“this Agreement”):

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1.1 *Territorial Application*

This Agreement shall apply, on the one hand, to the territory of the United Kingdom and, on the other hand, to the territory of Switzerland.

ARTICLE 1.2 *Relationship to Other International Agreements*

1. The Parties confirm their rights and obligations under the Marrakesh Agreement establishing the World Trade Organization (“the WTO Agreement”) and the General Agreement on Trade in Services (“the GATS”), the Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Citizens’ Rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement, done at Berne on 25 February

2019 (“the CRA”), the Temporary Agreement between the United Kingdom and Switzerland on Services Mobility done at London on 14 December 2020 (“the UK-Switzerland SMA”), the Trade Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland, done at Berne on 11 February 2019 (“the Trade Agreement”), and any other relevant international agreement to which they are a party.

2. This Agreement shall supersede Chapter 3 (Recognition of Professional Qualifications for Professional Service Providers) of the UK-Switzerland SMA.

ARTICLE 1.3

Transparency

1. Each Party shall publish, or otherwise make publicly available, and to the extent practicable make available on an official website, their laws, regulations, judicial decisions, administrative rulings of general application and international agreements to which they are party, that may affect the operation of this Agreement.

2. Each Party shall promptly respond to specific questions from the other Party and provide, upon request, information to each other on matters referred to in paragraph 1.

3. Nothing in this Agreement shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of any economic operator.

ARTICLE 1.4

Security Exceptions

Nothing in this Agreement shall be construed:

- (a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;
 - (ii) relating to fissionable and fusionable materials or the materials from which they are derived;
 - (iii) taken in time of war or other emergency in international relations; or

- (c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

CHAPTER 2

RECOGNITION OF PROFESSIONAL QUALIFICATIONS

ARTICLE 2.1

Definitions

For the purposes of this Agreement:

- (a) "activities which are connected with the exercise of official authority" means activities that a Party has notified to the Joint Committee that it considers as being activities which are connected with the exercise of official authority for the purposes of this Agreement;
- (b) "adaptation period" means a period of supervised practice, subject to an assessment and possibly accompanied by further education or training, of a regulated profession in the host jurisdiction under the responsibility of a qualified member of that profession;
- (c) "aptitude test" means a test limited to the professional knowledge of professionals, made by the relevant authorities of the host jurisdiction with the aim of assessing the ability of the professional to pursue a regulated profession in that jurisdiction;
- (d) "compensatory measures" means an adaptation period or an aptitude test;
- (e) "evidence of formal qualifications" means diplomas, certificates and other evidence issued by an authority in the jurisdiction of one of the Parties and certifying successful completion of professional training obtained mainly in that jurisdiction;
- (f) "home jurisdiction" means the jurisdiction of the Party in which the professional qualifications were obtained;
- (g) "host jurisdiction" means the jurisdiction of the Party in which a professional wants to access and pursue a regulated profession;
- (h) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement, practice or in any other form, and for greater certainty, includes a failure to act;
- (i) "measures of a Party" means measures adopted or maintained by:
 - (i) central, regional, or local governments or authorities; and

- (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;
- (j) “profession” means an occupation or trade, or any subdivision of, or distinct specialism within, a profession;
- (k) “professional” means a natural person who has obtained their professional qualifications in one of the Parties and seeks to access and pursue a regulated profession in the other Party;
- (l) “professional activity” means an activity which forms part of a regulated profession;
- (m) “professional experience” means the lawful and effective practice of the relevant profession;
- (n) “professional qualifications” means qualifications attested by evidence of formal qualifications or professional experience;
- (o) “regulated profession” means a profession, the practice of which, including the use of a title or designation, is subject to the possession of specific professional qualifications by virtue of a legislative or regulated measure of a Party; and
- (p) “relevant authority” means an authority or body, competent to recognise qualifications and authorise the practice of a regulated profession in a jurisdiction.

ARTICLE 2.2

Scope

1. This Agreement provides a regime for the recognition of professional qualifications which relevant authorities in each Party shall apply within their own area of competence. This Agreement applies where:

- (a) a professional with a professional qualification obtained in the United Kingdom makes an application to a relevant authority in Switzerland for permission to access and pursue a regulated profession; or
- (b) a professional with a professional qualification obtained in Switzerland makes an application to a relevant authority in the United Kingdom for permission to access and pursue a regulated profession.

2. This Agreement applies where the profession is regulated both in the home and host jurisdictions, and equally where the profession is only regulated in the host jurisdiction.

3. This Agreement does not apply to activities which are connected with the exercise of official authority.

ARTICLE 2.3

Recognition of Professional Qualifications

1. If access to or pursuit of a regulated profession in the host jurisdiction is contingent upon possession of specific professional qualifications, the relevant authority of the host jurisdiction shall permit access to, and pursuit of the profession to a professional who applies for recognition and who has comparable professional qualifications, unless a condition according to Article 2.4 (Conditions for Recognition) is met or a condition referred to in Article 2.6 (Other Conditions) is not met.

2. The Parties understand that the provisions of this Agreement only regulate issues relating to recognition of professional qualifications. Accordingly, the Parties agree that this Agreement:

- (a) does not confer any rights or obligations with respect to market access for services or service suppliers, or to natural persons seeking access to the employment market of the other Party; and
- (b) is without prejudice to any rights or obligations with respect to market access for services or service suppliers, or to natural persons seeking access to the employment market of the other Party.

3. Upon recognition, the host jurisdiction shall accord treatment no less favourable in respect of access to or pursuit of the regulated profession to that professional than that it accords, in like situations, to natural persons who have obtained their qualifications in the host jurisdiction.

ARTICLE 2.4

Conditions for Recognition

1. A relevant authority may refuse to recognise professional qualifications for the same profession where any of Conditions 1, 2 or 3 are met.

2. Condition 1 is met where:

- (a) there exists a substantial difference between the professional's professional qualifications and the essential knowledge or skills required to practise the profession in the host jurisdiction; and
- (b) the professional fails, or refuses to take, an aptitude test or to complete an adaptation period under Article 2.5 (Compensatory Measures).

3. Condition 2 is met where:

- (a) the regulated profession in the host jurisdiction comprises one or more professional activities that cover substantially different matters from those covered by the professional's professional qualifications; and
- (b) the professional fails, or refuses to take, an aptitude test or to complete an adaptation period under Article 2.5 (Compensatory Measures).

4. Condition 3 is met where requiring the professional to take an aptitude test or to complete an adaptation period under Article 2.5 (Compensatory Measures) would amount to requiring the professional to acquire the professional qualifications required to practise the regulated profession in the host jurisdiction.

ARTICLE 2.5 *Compensatory Measures*

1. A relevant authority may require a professional to be subject to compensatory measures where:

- (a) there exists a substantial difference between the professional's professional qualifications and the essential knowledge or skills required to practise the regulated profession in the host jurisdiction; or
- (b) the regulated profession in the host jurisdiction comprises one or more professional activities that cover substantially different matters from those covered by the professional's professional qualifications.

2. The relevant authority may decide between an adaptation period or an aptitude test.

3. To the extent possible and at the professional's request, relevant authorities shall provide their reasons for requiring that professional to undertake compensatory measures in writing.

4. Each Party shall ensure that, where a relevant authority requires the professional to take an aptitude test, that relevant authority schedules aptitude tests with reasonable frequency and at least once a year, where applicable.

ARTICLE 2.6 *Other Conditions*

A relevant authority may refuse to recognise professional qualifications for the same profession where access to and pursuit of a regulated profession by a natural person whose professional qualifications were obtained in the host jurisdiction is subject to conditions other than the possession of specific professional qualifications and the professional fails to meet those conditions.

ARTICLE 2.7
Procedure for Applications

1. The relevant authority shall:
 - (a) acknowledge receipt of the professional's application within one month of receipt and inform the professional of any missing document;
 - (b) grant the professional adequate time to complete the requirements and procedures of the application process;
 - (c) deal promptly with the professional's application; and
 - (d) issue a decision no later than four months after the date on which the complete application was submitted.

2. The relevant authority may require the professional to provide evidence of professional qualifications. The evidence requested shall be no more than is necessary to demonstrate that the professional holds comparable professional qualifications.

3. Where access to and pursuit of a regulated profession by a natural person whose professional qualifications were obtained in the host jurisdiction is subject to conditions other than the possession of specific professional qualifications (which the relevant authority shall make available under Article 2.8 (2) (Information)), the relevant authority may require the professional to provide evidence that they satisfy those conditions. The evidence that is requested shall be no more than is necessary to demonstrate that the professional satisfies those conditions.

4. A relevant authority shall accept copies of documents that are authenticated in accordance with the Party's domestic law in place of original documents, unless the relevant authority requires original documents to protect the integrity of the recognition process.

5. The relevant authority of the host jurisdiction and of the home jurisdiction shall work in close collaboration and shall exchange information to facilitate the professional's application, where applicable.

6. Where applicable, the relevant authority of the host jurisdiction and of the home jurisdiction shall exchange information regarding disciplinary action taken or criminal sanctions imposed or any other serious, specific circumstances which are likely to have consequences for the pursuit of the regulated professions by the professional. The Parties acknowledge that this is particularly important for the following professionals:
 - (a) health professionals exercising activities that have patient safety implications; and
 - (b) professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a profession regulated in that Party.

7. Any exchange of information between relevant authorities pursuant to this Article shall be subject to the data protection law of each of the Parties. The obligation under this paragraph extends to any other authorities working in collaboration or exchanging information for the purposes of paragraphs 5 and 6.

ARTICLE 2.8 *Information*

1. The relevant authority shall make available to professionals information about the professional qualifications required to practise the regulated profession.

2. The relevant authority shall make available to professionals information that explains any other conditions that apply to the access and pursuit of the regulated profession including:

- (a) where a licence to practise is required, the conditions under which a licence is obtained following the determination of eligibility and what that licence entails;
- (b) membership of a professional body;
- (c) use of professional or academic titles;
- (d) having an office address, maintaining an establishment or being a resident;
- (e) language skills;
- (f) proof of good character;
- (g) professional indemnity insurance;
- (h) compliance with the host jurisdiction's requirements for the use of trade or firm names; and
- (i) compliance with the host jurisdiction's ethics, for example, independence and good conduct.

3. The relevant authority shall make available to professionals information about the supervisory regime:

- (a) the relevant laws to be applied regarding, for example, disciplinary action, financial responsibility or liability;
- (b) the principles of discipline and enforcement of professional standards, including disciplinary jurisdiction and any consequential effects on practising professional activities;

- (c) the process and procedures for the ongoing verification of competence; and
 - (d) the criteria for, and procedures relating to, revocation of the registration.
4. The relevant authority shall make available to professionals information about the application procedure:
- (a) the documentation required of professionals and the form in which it should be presented; and
 - (b) the acceptance of documents and certificates issued in relation to professional qualifications and other conditions that apply to the practice of the regulated profession.
5. The relevant authority shall deal promptly with enquiries from professionals about the professional qualifications required and any other conditions that apply to the access and pursuit of the regulated profession.

ARTICLE 2.9
Knowledge of Languages

Relevant authorities may require that professionals demonstrate they possess the language skills necessary to the practice of the relevant profession. If the regulated profession has patient safety implications, language skills may be controlled. Any language test shall be proportionate to the activity to be pursued.

ARTICLE 2.10
Appeals

Each Party shall adopt or maintain measures granting professionals a right of appeal against:

- (a) a relevant authority's decision to refuse a professional's access to and pursuit of the regulated profession; and
- (b) a relevant authority's failure to make a decision about a professional's access to and pursuit of the regulated profession.

ARTICLE 2.11
Fees

The fees charged by relevant authorities in relation to this Agreement shall be:

- (a) reasonable and proportionate to the cost of the professional's application;

- (b) transparent, including in relation to fee structures, and made public in advance; and
- (c) payable by electronic means.

ARTICLE 2.12

Sector specific arrangements

1. The United Kingdom and Switzerland may establish for a specific profession more detailed arrangements than that provided in this Agreement to facilitate recognition of professional qualifications. Such arrangements may be in the form of an Annex to this Agreement or of a mutual recognition arrangement separate to this Agreement and shall be entered into as set out in paragraphs 2 and 3.
2. The United Kingdom, or its relevant authorities, may enter into arrangements as provided under domestic law.
3. The Swiss Federal Council is authorised to enter into Annexes to this Agreement or any other mutual recognition arrangements established pursuant to this Agreement.
4. An Annex or any other mutual recognition arrangement may include provisions relating to streamlined procedures, facilitations, administrative arrangements, recognition with or without default standard compensatory measures, or expedited recognition as appropriate for the specific profession.
5. The Annexes to this Agreement shall form an integral part of this Agreement.

CHAPTER 3 FINAL PROVISIONS

ARTICLE 3.1

Joint Committee

1. A Joint Committee is hereby established which shall consist of representatives of each Party.
2. The Joint Committee shall take decisions on any matter within its functions by mutual agreement.
3. The Joint Committee shall meet within one year of the date of entry into force of this Agreement and then annually, or as otherwise mutually agreed by the Parties.
4. Meetings of the Joint Committee shall be co-chaired by representatives of the Parties and hosted alternately. Any necessary administrative support for the meetings of the Joint Committee shall be provided alternately.

5. The Joint Committee shall carry out its work through whatever means are appropriate, which may include electronic mail or videoconferencing.
6. The Joint Committee may establish rules of procedure for the conduct of its work.
7. The Joint Committee may invite, as appropriate, relevant experts, including representatives of relevant authorities, to attend meetings.
8. The Joint Committee has the following functions:
 - (a) review and monitor the implementation and operation of this Agreement, including with regard to the measures adopted by a Party pursuant to it;
 - (b) exchange information between the Parties, and facilitate the exchange of information between relevant bodies and any relevant authorities, on any matters relating to this Agreement, including sharing best practices;
 - (c) identify areas for improvement in the implementation and operation of this Agreement;
 - (d) issue guidance to the Parties on best practices in relation to the implementation and operation of this Agreement;
 - (e) formulate and adopt recommendations which it considers necessary for the effective implementation and operation of this Agreement;
 - (f) develop guidelines for and facilitate discussions on the development of arrangements referred to in Article 2.12 (Sector specific arrangements);
 - (g) receive and publish notifications from a Party in relation to activities which it considers are connected with the exercise of official authority for the purposes of this Agreement; and
 - (h) discuss any other issues related to this Agreement or relevant to the recognition of professional qualifications.

ARTICLE 3.2 *Consultations*

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement and shall make every attempt through cooperation and consultations to reach a mutually satisfactory solution to any matter raised.
2. A Party may request in writing consultations with the other Party if it considers that a measure is inconsistent with this Agreement. The request shall set out the reasons for the request, including identification of the measure at issue and the legal basis for the complaint. The Party to which the request is made shall reply within ten days of the date of receipt of the request.

3. The consultations may be conducted in the Joint Committee.
4. In the consultations, each Party shall:
 - (a) provide sufficient factual information to enable a full examination of how the matter subject to consultations might affect the operation and application of this Agreement;
 - (b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing this information; and
 - (c) endeavour to ensure the participation of personnel of their competent governmental authorities or relevant authority who have responsibility for, or expertise in, the matter subject to the consultations.
5. Either Party may request that the other Party make available the personnel who have responsibility for, or expertise in, the matter subject to the consultations.
6. Consultations may be held in person or by any technological means available to the Parties. If the consultations are held in person, they shall be held in the capital of the responding Party, unless the Parties agree otherwise.
7. Consultations and, in particular, positions taken by the Parties during consultations, shall remain confidential.

ARTICLE 3.3 *Fulfilment of Obligations*

Each Party shall take any general or specific measures required to fulfil its obligations under this Agreement.

ARTICLE 3.4 *Entry into Force*

1. The Parties shall ratify or approve this Agreement in accordance with their domestic procedures. Each Party shall notify the other Party of the completion of those procedures.
2. This Agreement shall enter into force:
 - (a) on 1 January 2025; or
 - (b) on the day following the date of receipt of the later of the Parties' notifications that they have completed their domestic procedures,whichever is later.

ARTICLE 3.5
Amendments

The Parties may amend this Agreement in writing. Amendments shall enter into force:

- (a) on the first day of the month following the date of receipt of the later of the Parties' notifications that they have completed their domestic procedures; or
- (b) any other date as agreed between the Parties.

ARTICLE 3.6
Termination

A Party may terminate this Agreement by giving the other Party notice in writing. The Parties expect to consult before issuing such notice. Such termination shall take effect twelve months after the date of the notification.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done at London on this 14th day of June 2023 in two originals in the English and the French languages, each text being equally authentic.

For the
United Kingdom of Great Britain
and Northern Ireland:

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For the Swiss Confederation:

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ANNEX A
ADDITIONAL PROVISIONS FOR CERTAIN LEGAL PROFESSIONALS

ARTICLE A.1
Definitions

For the purposes of this Annex:

- (a) “covered home legal title” means a covered Swiss legal title or covered UK legal title obtained in the home jurisdiction;
- (b) “covered lawyer” means a professional who has obtained a covered home legal title;
- (c) “covered Swiss legal title” means the professional qualification obtained in Switzerland of 'Avocat', 'Advokat', 'Rechtsanwalt', 'Anwalt', 'Fürsprecher', 'Fürsprech' or 'Avvocato';
- (d) “covered UK legal title” means the professional qualification obtained in the United Kingdom of 'Advocate', 'Barrister' or 'Solicitor';
- (e) “relevant legal services authority” means the relevant authority responsible for a covered UK legal title or a covered Swiss legal title.

ARTICLE A.2
Scope of this Annex

This Annex applies where a covered lawyer applies to a relevant legal services authority for recognition under Chapter 2.

ARTICLE A.3
Adaptation Period for Covered Lawyers

1. If a relevant legal services authority requires under Article 2.5(1) (Compensatory Measures) that the covered lawyer should be subject to compensatory measures, then notwithstanding Article 2.5(2) (Compensatory Measures), the relevant legal services authority shall offer the covered lawyer the choice between taking an aptitude test or completing an adaptation period.

2. If the covered lawyer chooses to complete an adaptation period, the relevant legal services authority:

- (a) subject to sub-paragraph (b), shall register the covered lawyer;
- (b) may, by reasoned decision, subject to a right of appeal, refuse to register the covered lawyer, or cancel such registration where the covered lawyer

- fails to meet other conditions that a professional who holds the covered legal title of the host jurisdiction is also subject to;
- (c) shall require the covered lawyer to complete an adaptation period of:
 - (i) at least three years' effective and regular practice of the law of the host jurisdiction; or
 - (ii) less than three years' effective and regular practice of the law of the host jurisdiction if the covered lawyer possesses suitable professional experience;
 - (d) shall require the covered lawyer to use the covered home legal title during the adaptation period;
 - (e) may prevent the covered lawyer from carrying out certain professional activities during the adaptation period;
 - (f) shall apply the same rules of professional conduct to the covered lawyer as apply to a professional who holds the covered legal title of the host jurisdiction during the adaptation period.

ARTICLE A.4

Covered Legal Title of the Host Jurisdiction

Upon recognition by a relevant legal services authority under Article 2.3 (Recognition of Professional Qualifications), it shall permit the covered lawyer to also use the covered legal title for which that authority is responsible.

ARTICLE A.5

Amendments to this Annex

Notwithstanding Article 3.5 (Amendments), amendments to this Annex shall enter into force:

- (a) on the first day of the twelfth month following the date of receipt of the later of the Parties' notifications that they have completed their domestic procedures; or
- (b) any other date as agreed between the Parties.