

Explanatory Memorandum on the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Recognition of Professional Qualifications

Treaty Title: Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Recognition of Professional Qualifications

Command Paper No [for Treaty Section to complete]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament as an unnumbered Act Paper. It has been prepared for the purpose of fulfilling the statutory obligations under Part 2 of the Constitutional Reform and Governance Act 2010 (“CRaG Act 2010”).

2. Subject matter and purpose of the Treaty

2.1 The Agreement between the United Kingdom of Great Britain and Northern Ireland (“the UK”) and the Swiss Confederation (“Switzerland”) on Recognition of Professional Qualifications (“the Agreement”) concerns the arrangements for recognition of professional qualifications obtained in the other country for the purpose of access to or pursuit of a regulated profession (e.g. architecture, auditing and legal professions).

2.2 The UK and Switzerland have agreed a framework for the recognition of professional qualifications, which ensures professionals with qualifications obtained in the UK seeking to practise a regulated profession in Switzerland can access a smooth and transparent system to have their professional qualifications recognised. This also applies vice versa, for professionals qualified in Switzerland who are seeking to practise in the UK. For lawyers, the Agreement provides for a three-year adaptation period, which retains features of the previous EU system for Registered European Lawyers. The Agreement also provides for the facilitation of further sector-specific mutual recognition arrangements (MRAs), where there is interest in building on the Agreement’s core recognition arrangements or processes.

2.3 The Agreement safeguards regulators’ autonomy to set and maintain standards, assess, and where required, reject applications, or remove recognition from professionals that do not meet minimum standards.

3. Background

3.1 In 2022, UK services exports to Switzerland showed a positive trade surplus of nearly £6bn (exports of £14.8bn compared to £8.8bn imports from Switzerland). Both the UK and Switzerland have an estimated services market of over 70% GDP and the UK is Switzerland’s third largest services export market, after USA and EU. Both the UK and Switzerland have high professional standards and similar recognition of professional qualifications (RPQ) systems.

3.2 The UK has a number of treaties with Switzerland, including:

- a. 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”¹);
- b. 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

¹ [UK/Switzerland: Trade Agreement 2019 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/642222/UK-Switzerland-Trade-Agreement-2019.pdf)

the European Union and the Free Movement of Persons Agreement, done at Berne on 25 February 2019 (“the CRA”)²; and

- c. the Temporary Agreement between the United Kingdom and Switzerland on Services Mobility done at London on 14 December 2020 (“the SMA”)³.

3.3 The CRA contains provisions that include rolled over recognition of professional qualifications (“RPQ”) arrangements from EU legislation applying to UK and Swiss citizens, that expires for new applications for recognition on 31 December 2024⁴. It is therefore important that we aim for RPQ arrangements to be in place beyond 2024 in a bilateral UK-Switzerland agreement to provide certainty for professionals, businesses, consumers, and investors in both our countries.

3.4 The SMA is temporarily governing arrangements until the end of 2025 for the movement of natural persons to supply services. The SMA established a working group (Article 16) to discuss a comprehensive agreement on RPQ between the UK and Switzerland.

3.5 The working group has now completed its discussions, which has led to the conclusion of the Agreement.

3.6 Regulation of professional qualifications is carried out in the UK by a variety of bodies, referred to in the Agreement as ‘relevant authorities’, and the form of regulation varies between professions. The ability of the relevant authorities to set and maintain standards and decide whether individuals are fit to practise is an essential part of the UK’s regulatory regimes that protect service users and consumers across a range of sectors.

4. Content

4.1 The Agreement provides a framework for the recognition of professional qualifications between the UK and Switzerland. The Agreement applies to professionals holding qualifications from the UK or Switzerland applying for recognition by a relevant authority in the other country, regardless of nationality. It provides these professionals with a clear route for recognition of their qualifications.

4.2 The Agreement requires the UK and Switzerland to ensure their relevant authorities operate as set out below when considering applicants with Swiss/UK comparable professional qualifications. The relevant authorities decide what constitutes a comparable qualification.

4.3 Relevant authorities can refuse to recognise professional qualifications for the same profession where any of the following conditions are met, but under (a) or (b) must offer compensatory measures.

- a. there is 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 the professional fails, or refuses to comply with, compensatory measures.
- 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

² [GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/20190225_fmopa_en.pdf)

³ [GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/20190225_fmopa_en.pdf)

⁴ See Part Four of the Explainer for the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Citizens’ Rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement (GOV.UK, n.1).

professional qualifications, and the professional fails, or refuses to comply with, compensatory measures;

- c. compensatory measures would amount to requiring the professional to acquire the professional qualifications from the host jurisdiction.
- 4.4 Compensatory measures mean an aptitude test or an adaptation period. Relevant authorities are required, where possible, to provide their reasons for compensatory measures in writing.
 - 4.5 In addition, relevant authorities can refuse to recognise the professional qualification because access to and pursuit of a regulated profession by home professionals is subject to conditions other than the possession of specific professional qualifications and the professional fails to meet those conditions (e.g. ethics, proof of good character, possession of insurance). Relevant authorities can require a demonstration of language skills necessary for the practice of the profession. Any language test must be proportionate to the activity to be pursued.
 - 4.6 The Agreement articulates the procedure for applications. Relevant authorities are required to issue a decision no later than four months after the date on which the complete application was submitted.
 - 4.7 Relevant authorities are also required to exchange information with their counterparts in the other country about disciplinary action or criminal sanctions imposed, which is particularly important for the health professionals and professionals exercising activities related to the education of minors.
 - 4.8 Relevant authorities are required to make available information on the practice of the regulated profession. This information should include any other conditions that apply to the access and pursuit of the regulated profession (see 4.5), the supervisory regime and the application procedure.
 - 4.9 The Parties may establish more detailed sector specific arrangements to facilitate the recognition of professional qualifications. For the UK, any such sector specific arrangements would usually be negotiated by the relevant authority, and only where there is interest in doing so. Such arrangements may be annexed to the Agreement (where appropriate) as is the case with Annex A on recognition of certain legal professional qualifications, or established as a mutual recognition arrangement separate to the Agreement.
 - 4.10 Annex A of the Agreement sets out a bespoke route to recognition for certain legal professionals. It sets out that a lawyer qualified in one Party can register with the host authority in the other party, provide legal services in that country under their home title for 3 years and, subject to meeting the other conditions (as set out above), can requalify into the legal profession of the opposite country.
 - 4.11 The Agreement establishes a Joint Committee that will, amongst other things, monitor its implementation, facilitate the exchange of information, and provide guidance to the Parties to the Agreement. The Joint Committee will also publish notifications from a Party in relation to activities that it considers are connected with the exercise of official authority - these activities are excluded from the scope of the Agreement.
 - 4.12 The Agreement, including any Annex, may be amended if the Parties so agree in writing. The date for entry into force of an amendment may differ depending on whether it relates to the overall treaty (Article 3.5) or to Annex A (Article A.5). In either case, this is subject to notification of completion of domestic procedures. This amendment process as a default would engage the parliamentary scrutiny process set out in the CRaG Act 2010.

4.13 The UK Government and Swiss Confederation will aim for the Agreement to enter into force on or soon after 1st January 2025. The Agreement does not enter into force until the Parties have notified each other that domestic procedures are complete.

5. Implementation

5.1 The Agreement will need to be implemented across the UK to give effect to the provisions in domestic law. The Government is beginning work on implementation and the Professional Qualifications Act 2022 contains powers which can be used by the Government or the Devolved Administrations to implement international recognition agreements.

6. Territorial application

6.1 The territorial application of the Agreement is the United Kingdom of Great Britain and Northern Ireland only. The Agreement does not extend to the Crown Dependencies or Overseas Territories.

7. Financial

7.1 Public funding will be required to meet the obligations for managing the Agreement and attending periodic Joint Committee meetings, which would include travel costs.

8. Human rights

8.1 There are no human rights implications arising from the Agreement.

9. Reservations and Declarations

9.1 No reservations or declarations have been made in relation to the Agreement.

10. Consultation

Devolved Administrations (DA)

10.1 The Agreement relates to regulatory requirements for professional qualifications, certain aspects of which are devolved to Scotland, Northern Ireland and Wales in. The UK Government has consulted the Devolved Administrations on the drafting of the Agreement and shared the relevant draft text in advance of signature. The UK Government have also engaged with relevant authorities in the Devolved Administrations via the Department for Business and Trade's Regulated Professional Advisory Forum and consulted them on progress. Comments and questions from both the Devolved Administrations and regulators focused on implementation implications for them.

Crown Dependencies and Overseas Territories

10.2 The Agreement does not extend to the Crown Dependencies and Overseas Territories. They were informed of the negotiation and the likely form of the Agreement during its negotiation.

Other stakeholders

10.3 Consultation with businesses in relevant sectors on the Agreement has taken the form of discussion within the Department for Business and Trade's established formal consultation groups and in other ad hoc discussions.

10.4 Consultation with relevant authorities across the UK has taken place in DBT's Regulated Professions Advisory Forum and in other informal discussions.

10.5 The "Call for input on trade negotiations with Switzerland" ran from 28 April to 22 June 2022⁵. While this consultation was on the whole trading relationship, it included responses on recognition of professional qualifications, and these comments were considered in the negotiation of the Agreement.

11. Ministerial responsibility

11.1 The Secretary of State for Business and Trade has overall responsibility for the UK's policy relating to the UK's trade relations with Switzerland and for this Agreement.

11.2 The Secretary of State for Foreign, Commonwealth and Development Affairs has overall responsibility for the UK's policy relating to the UK's relations with Switzerland.

The Rt Hon Kemi Badenoch MP

Secretary of State for Business and Trade and President of the Board of Trade

⁵ [GOV.UK](https://www.gov.uk) (28 April 2022)