
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations implement Directive [2006/123/EC](#) of the European Parliament and of the Council on services in the internal market (OJNo. L 376, 27.12.2006, p.36) (“the Directive”).

Part 1 contains interpretative, scoping, exclusion and savings provisions.

Regulation 2(2) sets out those services excluded from the scope of the Regulations. Regulations 5(1) and 5(2) specify areas of law and policy and functions of competent authorities that are not affected by the Regulations. Regulations 5(3) and 5(4) limit the application of the Regulations in respect of service providers and recipients who are not individual nationals of an EEA state or legal persons established in an EEA state.

Regulation 6 concerns the relationship between the Regulations and other legislation. Competent authorities and service providers do not have to comply with a requirement imposed by Part 2, 5 or 6 of the Regulations if they cannot comply with both that requirement and a requirement relating to services imposed by an earlier directly applicable Community instrument or enactment which implements Community law. Competent authorities do not have to comply with a requirement imposed by Part 3 or 4 of the Regulations if they cannot comply with both that requirement and a requirement relating to services imposed by an earlier directly applicable Community instrument or enactment (whether or not the enactment implements Community law).

Part 2 imposes requirements on service providers. Regulations 7 to 11 require service providers to communicate prescribed information about themselves and their services to recipients. Regulation 12 specifies how service providers must handle complaints from recipients.

Part 3 applies to the provision of services in the United Kingdom, except in relation to the provision of services from another EEA state by a provider established in that state (which is the subject of Part 4).

Regulation 14 provides that a competent authority must not make access to or the exercise of a service activity subject to an authorisation scheme unless certain conditions are satisfied. Regulation 15 makes provision about the conditions for granting authorisations and regulation 16 provides that an authorisation must be for an indefinite period except in certain circumstances. Regulation 17 applies where the number of authorisations available for a competent authority under an authorisation scheme are limited because of scarcity of available natural resources or technical capacity.

Regulations 18 to 20 contain requirements for procedures and formalities under an authorisation scheme. Regulation 21 lists requirements to which a competent authority must not make access to, or the exercise of, a service activity subject. Regulation 22 lists requirements which must satisfy the conditions of non-discrimination, necessity and proportionality. It imposes a duty on competent authorities to notify the Secretary of State about proposals to introduce new requirements affecting access to or the exercise of a service activity.

Part 4 has effect in relation to the exercise of the freedom of a provider established in another EEA state to provide a service in the UK from that state.

Regulation 24 provides that a competent authority must not make access to or the exercise of a service activity subject to compliance with any requirements which do not respect the principles of non-discrimination, necessity and proportionality. It lists requirements which may only be imposed in limited circumstances. Regulation 25 contains exclusions.

Regulation 26 allows a competent authority in exceptional circumstances to take measures relating to the safety of a service in the case of a provider established in another EEA state. The procedure is set out in regulation 27. (See regulation 44 for the inverse scenario.)

Regulation 28 imposes a duty on competent authorities to notify the Secretary of State about proposals to introduce new requirements affecting access to or the exercise of a service activity.

Part 5 concerns the rights of recipients of services. Regulation 29 prohibits competent authorities from restricting recipients' usage of services from other EEA states. Regulation 30 prohibits competent authorities from discriminating on the basis of recipients' nationality or place of residence, and service providers from discriminating in their general conditions on the basis of recipients' place of residence.

Part 6 imposes duties on competent authorities. Regulation 31 prohibits competent authorities from requiring specific documents where an equivalent document shows that the requirement in question has been satisfied. Regulations 33 to 35 limit the extent to which competent authorities may impose requirements on service providers in relation to professional liability insurance, commercial communications and multidisciplinary activities.

Part 7 imposes information requirements on competent authorities. Regulation 36(1) requires the provision of information to the Secretary of State (for the purposes of the electronic assistance facility referred to in regulation 38). Regulation 36(2) requires the provision of certain other information to the Secretary of State on request. Regulation 37 requires competent authorities to provide providers or recipients, on request, with information on the interpretation of authorisation procedures.

Regulation 32 and Part 8 together ensure that authorisation procedures may be completed electronically. Regulation 38 obliges Her Majesty's Government to establish an electronic facility for the completion of authorisation procedures related to services which will act as the point of single contact for the United Kingdom.

Part 9 contains provisions relating to administrative cooperation between competent authorities in different EEA states. Regulation 39 sets out the general obligations of competent authorities to assist and co-operate with authorities in other EEA states. Regulation 40 deals with the provision of information by competent authorities in relation to a provider established in the UK who is providing a service in another EEA state. Regulation 41 deals with the provision of information by competent authorities in relation to providers established in another EEA state who are providing a service in the UK.

Regulation 42 requires competent authorities to inform the Secretary of State as soon as possible if they become aware of acts or circumstances relating to a service activity which could cause serious damage to the health and safety of persons or the environment.

Regulation 43 deals with the supply of information by a competent authority to an authority in another EEA state in relation to disciplinary or administrative actions, criminal sanctions and decisions involving insolvency or bankruptcy involving fraud in relation to a provider of a service.

Regulation 44 deals with cases where an authority in another EEA state proposes, exceptionally, to take measures relating to the safety of a service as provided by a provider established in the UK. (See regulations 26 and 27 for the inverse scenario).

Part 10 contains supplementary, miscellaneous and enforcement provisions.

Regulation 45 amends the Pedlars Act 1871 so as to remove services from the scope of that Act.

Regulation 46 amends the Employment Agencies Act 1973 so as to allow information obtained during inspections of business premises under section 9 of that Act to be disclosed for the purposes of Part 9 to competent authorities in other EEA states.

Regulation 47 amends the Local Government (Miscellaneous Provisions) Act 1982. Under paragraph 10 of Schedule 3, where an application is made in relation to a sex establishment licence, a copy must be sent to the chief officer of police. Regulation 47 makes provision as to how that copy

is sent in cases where the application is made through the electronic assistance facility referred to in regulation 38 or an electronic facility maintained by a local authority. Regulation 47 also allows EEA residents or bodies corporate incorporated in other EEA states to obtain sex establishment licences. In addition, local authorities will be required to provide reasons for refusing to grant, transfer or renew a licence, whether or not requested by the applicant.

Regulation 48 amends Schedule 13 to the Enterprise Act 2002 so that the duties imposed on service providers in regulations 7 to 12 and 30 can be enforced under Part 8 of that Act.

Regulation 49 amends the Licensing Act 2003 to ensure that applications and notices which are submitted to local authorities through the electronic assistance facility referred to in regulation 38 or electronic facilities maintained by local authorities do not need to be separately notified to other public authorities by the persons submitting them.

A transposition note and an impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector are available from the BIS website (www.bis.gov.uk). They are also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website [http:\(www.opsi.gov.uk\)](http://www.opsi.gov.uk). Copies have also been placed in the Libraries of both Houses of Parliament.