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DRAFT STATUTORY INSTRUMENTS

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**2009 No.**

**The Provision of Services Regulations 2009**

**PART 4**

**DUTIES OF COMPETENT AUTHORITIES IN RELATION TO  
PROVIDERS OF SERVICES PROVIDED FROM ANOTHER EEA STATE**

**Freedom to provide services**

**24.**—(1) A competent authority must not make access to, or the exercise of, a service activity subject to compliance with any requirement that does not respect the following principles—

- (a) non-discrimination, that is, that the requirement must be neither directly nor indirectly discriminatory with regard to nationality or with regard to an EEA state in which the provider of a service is established;
- (b) necessity, that is, that the requirement must be justified for reasons of public policy, public security, public health or the protection of the environment;
- (c) proportionality, that is, that the requirement must be suitable for attaining the objective pursued and must not go beyond what is necessary to attain that objective.

(2) A competent authority may not restrict the right of the provider of a service to provide the service by imposing any of the following requirements—

- (a) an obligation on the provider to be established in the United Kingdom;
  - (b) an obligation on the provider to obtain an authorisation from a competent authority in the United Kingdom, including entry in a register or registration with a professional body or association in the United Kingdom, except where provided for by—
    - (i) a provision of an enactment implementing a Community obligation, where the enactment is passed or made before the day on which these Regulations are made, or
    - (ii) a provision of any directly applicable Community instrument coming into force before that day;
  - (c) a ban on the provider setting up a certain form or type of infrastructure in the United Kingdom, including an office or chambers, which the provider needs in order to supply the services in question;
  - (d) the application of specific contractual arrangements between the provider and a recipient of the service which prevent or restrict service provision by the self-employed;
  - (e) an obligation on the provider to possess an identity document issued by a competent authority in the United Kingdom specific to the exercise of a service activity;
  - (f) requirements, except for those necessary for health and safety at work, affecting the use of equipment and material that are an integral part of the service provided;
  - (g) requirements referred to in regulation 29(1).
- (3) Paragraph (2) does not prevent a competent authority from—

- (a) imposing requirements that are justified for reasons of public policy, public security, public health or the protection of the environment (and which comply with paragraph (1)), or
- (b) applying, in accordance with Community law, rules in force in the United Kingdom as regards employment conditions, including those laid down in collective agreements.