

STATUTORY INSTRUMENTS

2009 No. 2999

The Provision of Services Regulations 2009

PART 6

**OTHER DUTIES OF COMPETENT AUTHORITIES
IN RELATION TO PROVIDERS AND RECIPIENTS**

Certificates and other documents

31.—(1) This regulation applies where a competent authority requires the provider or recipient of a service to supply a certificate, attestation or any other document proving that a requirement has been satisfied.

(2) The competent authority must accept any document—

- (a) which serves an equivalent purpose, or
- (b) from which it is clear that the requirement has been satisfied.

(3) The competent authority may not require a document to be produced in its original form, or as a certified copy or certified translation, except—

- (a) as provided for in [^{F1}other retained EU law], or
- (b) where such a requirement is justified by an overriding reason relating to the public interest, including public order and security.

(4) This regulation does not prevent a competent authority from requiring a non-certified translation of a document into English.

(5) This regulation does not apply to the documents referred to in—

^{F2}(a)

^{F2}(b)

^{F2}(c)

^{F2}(d)

^{F2}(e)

(f) sections 17 and 396 of the Companies Act 2006 ^{M1};

(g) [^{F3}regulations 60(1) ^{F4}..., 60(4) and (5) and 62 of the Public Contracts Regulations 2015];

^{F5}(h) regulations 61(1), 61(4) and (5) and 63 of the Public Contracts (Scotland) Regulations 2015;]

^{F6}(i)

(j) the Overseas Companies Regulations 2009 ^{M2}.

^{F7}(k) regulations [^{F8}38 and 39] of the European Union (Recognition of Professional Qualifications) Regulations 2015.]

- F1** Words in reg. 31(3)(a) substituted (31.12.2020) by The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), **17(1)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 31(5)(a)-(e) omitted (31.12.2020) by virtue of The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), **17(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 31(5)(g) substituted (26.2.2015) by The Public Contracts Regulations 2015 (S.I. 2015/102), reg. 1(2), **Sch. 6 para. 16**
- F4** Words in reg. 31(5)(g) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **15(2)** (with Sch. para. 3, 4)
- F5** Reg. 31(5)(h) substituted (31.12.2020) by The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), **17(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 31(5) omitted (18.1.2016) by The European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059), regs. 1, **75(2)** (with reg. 78)
- F7** Reg. 31(5)(k) substituted (31.12.2020) by The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), **17(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 31(5)(k) substituted (1.12.2023) by The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023 (S.I. 2023/1286), reg. 1, **Sch. 4 para. 9(2)**

Marginal Citations

- M1** 2006 c. 46.
- M2** S.I. 2009/1801.

Electronic procedures

- 32.**—(1) A competent authority must ensure that—
- (a) all procedures and formalities relating to access to, or the exercise of, a service activity may be easily completed, at a distance and by electronic means (through the electronic assistance facility referred to in regulation 38 or otherwise), and
 - (b) its website affords access to that electronic assistance facility.
- (2) In paragraph (1), the reference to procedures or formalities does not include procedures or formalities consisting of—
- (a) the inspection of premises or equipment, or
 - (b) physical examination of the capability or professional integrity of—
 - (i) a provider of the service, or
 - (ii) the staff of such a provider.

Insurance

F9 **33.**

- F9** Reg. 33 omitted (31.12.2020) by virtue of The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), **18**; 2020 c. 1, Sch. 5 para. 1(1)

Commercial communications by regulated professions

- 34.**—(1) A competent authority may not impose a total prohibition on the use of commercial communications by providers of a service who are carrying on a regulated profession.

(2) The relevant competent authority must ensure that commercial communications by providers of a service who are carrying on a regulated profession comply with professional rules which relate in particular to—

- (a) the independence, dignity and integrity of that profession, and
- (b) professional secrecy,

in a manner consistent with the specific nature of that profession.

(3) Rules made by a competent authority in relation to commercial communications by providers of a service who are carrying on a regulated profession must be—

- ^{F10}(a)
- (b) justified by an overriding reason relating to the public interest, and
- (c) proportionate.

(4) In this regulation, “commercial communications” means communications in any form designed to promote, directly or indirectly, the goods, services or image of a person carrying on a regulated profession, other than—

- (a) a communication consisting only of information allowing direct access to the activity of that person, including a postal address, a domain name or an e-mail address, or
- (b) a communication which has been prepared independently of the person making it (and for this purpose, a communication prepared without financial consideration is to be taken to have been prepared independently unless the contrary is shown).

F10 Reg. 34(3)(a) omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), 19; 2020 c. 1, Sch. 5 para. 1(1)

Multi-disciplinary activities

35.—(1) A competent authority may not subject the provider of a service to any requirement which—

- (a) obliges the provider to exercise a specific service activity exclusively, or
- (b) restricts the exercise, jointly or in partnership, of different activities.

(2) Paragraph (1) does not prevent a competent authority for a regulated profession from imposing a requirement if or to the extent that—

- (a) the requirement is justified in order to guarantee compliance with the rules governing ethics and conduct in that profession, and
- (b) the requirement is necessary in order to ensure the impartiality and independence of that profession.

(3) Paragraph (4) applies where a competent authority has not imposed on a provider of a service carrying on a regulated profession—

- (a) an obligation within paragraph (1)(a), or
- (b) a restriction within paragraph (1)(b) that prohibits the exercise of different activities.

(4) The competent authority must ensure that—

- (a) conflicts of interest are avoided,
- (b) independence and impartiality are secured as required, and
- (c) the rules governing professional ethics and conduct for different activities are compatible with one another (including in particular in relation to matters of professional secrecy).

(5) In the case of certification, accreditation, technical monitoring, test or trial services, paragraph (1) does not prevent a competent authority from imposing a requirement if, or to the extent that, the requirement is necessary in order to ensure the independence and impartiality of the provider of the service.

(6) Paragraph (7) applies where a competent authority has not imposed on a provider of a service referred to in paragraph (5)—

- (a) an obligation within paragraph (1)(a), or
- (b) a restriction within paragraph (1)(b) that prohibits the exercise of different activities.

(7) The competent authority must ensure that—

- (a) conflicts of interest are avoided,
- (b) independence and impartiality are secured as required, and
- (c) the rules governing the provision of that service, and the carrying on of the other activity, are compatible (including in particular in relation to matters of professional secrecy).

Changes to legislation:

There are currently no known outstanding effects for the The Provision of Services Regulations 2009, PART 6.