



Department
for Business
Innovation & Skills

**PROVISION OF SERVICES
REGULATIONS 2009: NATIONAL
APPLICABILITY OF LICENCES**

Impact assessment

FEBRUARY 2013

Regulatory Triage Assessment	
Title of regulatory proposal	Amendment to Provision of Services Regulations 2009
Lead Department/Agency	BIS
Expected date of implementation	Q1 2013 SNR 6
Origin	EU
Date	29/01/2013
Lead Departmental Contact	Elizabeth Anastasi
Departmental Triage Assessment	Deregulation (fast track)

Rationale for intervention and intended effects

The European Commission has indicated that the UK may be in breach of part of the Services Directive 2006. The intention therefore is to amend the Provision of Services Regulations 2009 to ensure compliance with the Directive. The main licences under scope for this change are those that relate to authorising 'fit-and-proper-persons' – those where the obligations fall on the individual rather than premises, such as lawyers or doctors. The Services Directive specifies that a licence granted by a competent authority (including a local authority) should be effective nationwide unless there are good reasons otherwise. Competent authority in this context refers to the sub-national bodies that are responsible for authorising these licences.

In particular, the Commission has highlighted that individuals or businesses that require these licences and who wish to operate in different locations within the UK, may be required to apply for the same licence under multiple competent authorities. At present, authorisation for these licences from one competent authority may only relate to one nation within the UK (England, Wales, Scotland or Northern Ireland), rather than, once issued, being automatically recognised nationwide. There is currently no mechanism for recognition of authorisations delivered by another devolved administration. This also could apply to mutual recognition of authorisations between local authorities as well as with Devolved Administrations.

The change in regulations will formalise the process of mutual recognition of authorisations between competent authorities within the UK and hence remove potentially significant unnecessary administrative burden for both individuals and businesses.

The intended impact of the change is to further streamline and reduce the administrative burden on individuals and businesses who require these licences and who want to operate within the boundaries of multiple competent authorities within the UK.

Viable policy options (including alternatives to regulation)

‘Do nothing’: given that the UK could well be infracted by the European Union for non-compliance of the Services Directive 2006, ‘do nothing’ is not considered to be a viable option.

‘Amendment of regulations’: In this instance, amendment to the Provision of Services Regulations 2009 to enable mutual recognition of relevant authorisations to take place (by competent authorities in both local authorities and devolved administrations) is considered to be the only (‘do minimum’) option.

Initial assessment of business impact

The main affected parties from this change in the regulations are expected to be:

- individuals and businesses, who are expected to benefit from the change through a reduction in administrative burden; and
- competent authorities (primarily local authorities and devolved administrations), for whom the impact should be neutral (covered in more detail below).

At present, it is unclear the extent of individuals and/or businesses that might be affected by this change and the scale of the cost savings that could be incurred. However, a number of questions are being proposed within the consultation to help elicit the necessary information. Following the consultation, the final Impact Assessment for this proposed change in regulation will incorporate any new evidence received.

The following discussion highlights the broad areas for consideration when assessing the potential impact on affected groups.

Range of impact

At present it is not possible to form a view about the range of the impact – it is not clear how many individuals or businesses seeking the types of licences considered here are affected by the change. Not all individuals or businesses may wish to operate across a wide geographical area - businesses may be single site only, or may choose to only operate branches within the boundaries of one competent authority.

Potential costs to individuals or businesses:

There are expected to be no additional (one-off or ongoing, monetised or non-monetised) costs for individuals or businesses from this amendment. As highlighted above, this change is deregulatory and should remove administrative burden from those looking to operate across a wide geographical area.

Potential benefits to individuals or businesses:

The main source of benefit is expected to come from the avoided costs associated with the reduction in administrative costs of gaining authorisation from multiple competence authorities. Once an individual or business has gained the required licence from one competent authority, there should be no further costs incurred for the duration of the licence or the activity covered.

The main calculation for this benefit would be the number of individuals or businesses affected (i.e. those that want to operate within the boundaries of multiple competent authorities) multiplied by the cost of applying for licences (direct in terms of fees, and indirect in terms of, for example, resource required).

This calculation would potentially be affected by variation in the cost of the licence that is being applied for and the number of geographical areas concerned (i.e. the number of competent authorities individuals or businesses choose to apply to).

Information on both costs and numbers affected are being sought as part of the consultation exercise, where respondents have been asked to distinguish between the potential costs attached to different types of licences (as far as possible) and whether there may be a disproportionate benefit for SMEs.

There is also a broader potential indirect benefit through the reduction of barriers to competition in each geographical market. By reducing the administrative burden to operate within each additional area, businesses may choose to operate across a wider geographical location, hence increasing competitive pressure on incumbents.

Impact on competent authorities

A number of assumptions must underpin the assessment of the impact on competent authorities:

- 1) Competent Authorities must not make a profit from the services that they provide – as such revenues must only cover the costs of providing the service in question;
- 2) The provision of licence-issuing services is demand led – i.e. that this activity of the competent authorities is staffed according to expected demand.

The removal of this regulatory burden is therefore expected to have a neutral impact on competent authorities as the reduction of demand for issuing of licences will be matched by an equal amount of resources required.

One-in, One-out status

This proposal is likely to be out-of-scope for One-in, One-out, as this is ensuring minimum regulatory compliance with an EU Directive.

Rationale for Triage rating

As highlighted above, an amendment to the regulations is required in order for the UK to remain compliant with EU Directives. Further, the measure is deregulatory and should simplify procedures for individuals/businesses looking to operate across multiple jurisdictions. As such the gross cost for business falls under the threshold required for a more comprehensive assessment.

The consultation will also provide greater detail on the potential cost savings (benefits) to businesses that might be achievable. On completion of the consultation, a providing that further information has been forthcoming, the section above regarding potential costs and benefits will be revised.

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February 2013

Date: 1

Economist signoff (senior analyst): Michael Williams (ETID)
Date: 31st January 2013

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