



# Department for Business Innovation & Skills

## PROPOSED CHANGES TO THE IMPLEMENTING LEGISLATION OF THE EU SERVICES DIRECTIVE TO ALLOW FOR NATIONAL APPLICABILITY OF LICENCES

### Final Impact Assessment

AUGUST 2013

<b>Title of regulatory proposal</b>	Amendment to Provision of Services Regulations 2009
<b>Lead Department/Agency</b>	BIS
<b>Expected date of implementation</b>	April 2014
<b>Origin</b>	EU
<b>Date</b>	22/08/2013
<b>Lead Departmental Contact</b>	Elizabeth Anastasi – Economic Adviser
<b>Departmental Triage Assessment</b>	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. Government intervention is therefore necessary 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' or 'personal' licences – those where the obligations fall on the individual rather than premises. The Services Directive specifies that a licence granted by a competent 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.

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. The amendment will also deliver the objective of free movement of services across the UK.

### **Viable policy options (including alternatives to regulation)**

'Do nothing': given that the UK could 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) 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, for whom the impact should be neutral (covered in more detail below).

Given the lack of data available, 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. In order to gather evidence of the impact of the proposals, questions on the impact and the extent of associated (direct and indirect) costs were included in the consultation, but did not yield any useful data for the calculation of the net impact of the amendment. The following discussion therefore considers the broad areas required to assess the potential impact on affected groups.

#### *Range of impact*

It is not possible to form a view about the range of the impact as it is not clear how many individuals or businesses seeking the types of licences covered by the regulations 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. 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 competent 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 was sought as part of the consultation exercise (including questions designed to distinguish between the potential costs attached to different types of licences and whether there may be a disproportionate benefit for SMEs), however no data provided by respondents.

There is also a broader potential indirect benefit (to those procuring these services) 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 which could have both price and quality effects.

#### *Impact on competent authorities*

A number of considerations/constraints 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. 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.

#### *Summary:*

The measure is deregulatory and should simplify procedures for individuals/businesses looking to operate across multiple jurisdictions. While there is limited data available to make a full assessment of the potential net impact, it is expected that there will be a small net benefit associated with the avoided costs of removing administrative burden on individuals and businesses.

### **One-in, One-out status**

The amendment is required to ensure minimum compliance of an EU Directive. As such it is not in scope for one-in, one-out.

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**Rationale for Triage rating**

An amendment to the regulations is required in order for the UK to ensure compliance with EU Directives. Further, the measure is small and 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.

**Departmental signoff (SCS):** Peter Stephens (ETID)

Date: 16 May 2013

**Economist signoff (*senior analyst*):** Michael Williams (ETID)

Date: 03 May 2013

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