



Department for
Business, Energy
& Industrial Strategy

Guidance on the provision of services regulations

Written for Competent
Authorities, Devolved
Administrations, Government
Departments and Businesses

Amendments from the Provision of
Services Regulations (Amendment
etc.) (EU Exit) Regulations 2018

March 2019

OGL

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1 Introduction

1.1 What do the Provision of Services Regulations do?

The Provision of Services Regulations 2009¹ were introduced in 2009 and implemented European Union (EU) Directive 2006/123/EC (hereafter the 'Services Directive') into UK law.² The aim of this Directive was to make it easier for businesses to provide cross-border services with other European Economic Area (EEA)³ countries, by lowering non-tariff barriers to trade.

The Department for Business, Energy and Industrial Strategy (BEIS) made the Provision of Services Regulations (Amendment etc.) (EU Exit) Regulations 2018 (hereafter 'the 2018 Regulations')⁴ in 2018 in order to address deficiencies arising as a result of the UK's exit from the EU without a formal withdrawal agreement. The 2018 Regulations are enforced on exit day. However, the Provision of Services Regulations 2009 as amended by the 2018 Regulations (hereafter 'the Regulations') will continue to protect UK businesses and consumer rights by maintaining obligations on UK Competent Authorities to ensure that their regulation of service activity is proportionate and justified in the public interest.⁵

The 2018 Regulations have received the consent of the devolved administrations in Scotland and Wales and the Northern Ireland Civil Service under the protocol established for considering regulations of this nature, and they will therefore apply UK-wide. The Regulations will:

- prevent Competent Authorities from imposing disproportionate or unnecessary requirements on businesses who seek to provide services in the UK;
- require Competent Authorities to notify the Secretary of State for BEIS of new requirements affecting access to, or the exercise of, a service activity;
- require the UK government to maintain an online facility for information dissemination and the process of authorisation application;
- set out the duties of businesses, detailing the requirements for contact details and other information to be made available for service recipients.

1. The Provision of Services Regulations 2009 (www.legislation.gov.uk/ukdsi/2009/9780111486276/contents)

2. The aim was to develop the Single Market in services by breaking down barriers to cross-border trade within the EU. It specifically aimed to simplify administrative procedures and remove obstacles for services activities; enhance mutual trust between member states through effective administrative cooperation; and improve the quality of businesses and strengthen consumer rights in the Single Market.

3. Members of the European Union and Iceland, Liechtenstein and Norway.

4. The Provision of Services Regulations (Amendment) (EU Exit) Regulations

2018 (www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-provision-of-services-amendment-eu-exit-regulations-2018).

5. This means reasons recognised as such in the case law, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives.

Disclaimer

This guidance will support users to understand the Regulations using plain English, identifying the most relevant sections and appropriate examples. The guidance should be read in conjunction with the Regulations as amended, including those amendments introduced by the 2018 Regulations. **Readers are encouraged to take legal advice to ensure their activity complies with the Regulations in full and not to use this document as a substitute.**

Stakeholders

A special thanks to stakeholders from the services sector across the UK as well as the devolved administrations of Northern Ireland, Scotland and Wales who provided vital contributions to develop the Regulations and this document. Please share any feedback via servicesregulations@beis.gov.uk.

1.2 Who is this guidance for?

The guidance has been issued for service providers, UK Competent Authorities and interested stakeholders with advice on the principles of the Regulations and suggested direction for compliance.

Competent Authorities are those bodies who set rules or requirements which businesses must comply with, and those that are involved in authorising service providers. These bodies include local authorities, national regulators, licensing and

authorisation bodies and other authorities such as professional bodies or bodies who maintain required registers. Competent Authorities should seek legal advice regarding the specific application of the Regulations for their organisation.

A service provider is a body or individual that provides or offers a service within the UK. These will be referred to as a 'business' from this point on.

2 Summary of the regulations

The Regulations are structured in parts, grouped by the type of provisions they cover. The following table outlines the most important elements from each part of the Regulations.

It also shows where certain parts have been removed or revoked by the 2018 Regulations. This may be a useful reference guide to explore in more detail.

Reference to the Regulations	Brief description of the provisions
Part 1	Details on the definition of 'Service' and 'Competent Authority'.
Part 2	Service providers have a duty to provide their contact details and other information to service recipients, along with processes for submitting complaints.
Part 3	Competent Authorities are required to provide a clear process for their authorisation scheme. Businesses cannot be prohibited from delivering a services activity due to an economic test, involvement of competing operators or other requirements such as quantitative or territorial restrictions, minimum number of employees etc.
Part 4	Competent Authorities must clearly outline details of all documentation required of a service provider as part of the application. They must also ensure the availability of information and acceptance of applications through an electronic facility; Competent Authorities cannot: impose a total prohibition on the use of commercial communications by providers of a service who are carrying on a regulated profession; or oblige the provider to exercise a specific service activity exclusively and restrict the exercise, jointly or in partnership, of different activities.
Part 5	Competent Authorities must provide information which is clear, unambiguous and shared via electronic means to providers and recipients on request. They must also ensure the Secretary of State is updated with the most current information on the authorisation scheme they administer and the requirements that are applicable to providers of the service.
Part 6	The Secretary of State is responsible for providing an electronic assistance facility for users.

3 EU Exit implications for the UK Services Sector

The scope of the Regulations applies to UK nationals established in the UK and UK-established businesses. EEA businesses will no longer have preferential access rights and protections due to changes introduced by the 2018 Regulations.

Regulators may choose to impose more restrictive requirements on EEA businesses, in line with their new status as originating from a 'third country'.

UK Competent Authorities will no longer have access to the Internal Market Information (IMI) System as this is part of the EU's Single Market infrastructure. However, Competent Authorities can contact EEA Competent Authorities directly if they require information in the future.

The reciprocal arrangements for accepting professional liability insurance have been removed. This means that UK Competent Authorities may recognise EEA equivalent or comparable insurance but are no longer required to do so.

The Regulations will benefit UK businesses by placing obligations on UK Competent

Authorities to regulate services in scope of the Regulations (see Section 4 for more details). For example, UK Competent Authorities will continue to be required to design their licensing forms and authorisation schemes in a way that is proportionate and justified by a public interest objective.

The UK government will continue to use GOV.UK to share information to support businesses seeking to provide services in the UK. This information will continue to include authorisation procedures (such as licensing forms), and the requirements businesses must comply with when they want to provide services.

To benefit service recipients, businesses in the UK will continue to be required to provide information to service recipients and to respond to complaints.

4 Which services are included in the Regulations?

A service is an economic activity normally provided in exchange for remuneration and which is not provided under a contract for employment. This activity could be industrial or commercial in nature, a craft or the activity of a profession. “Remuneration” should be interpreted broadly, for example, money or payment in kind (but excluding wages/salaries).

A service can be business-to-business or business-to-individual activity. Services which are not provided for remuneration are not covered by the Regulations. For example, non-remunerated house-to-house collections for charity do not fall in scope of the Regulations.

Types of services that the Regulations will apply to, include, but are not limited to:

- **business services:** management consultancy; professional services such as lawyers, accountants and actuaries; advertising; certification and testing; facilities management, including office maintenance; fitting and maintenance of equipment; renting of equipment; logistics; waste management; training providers;

the services of commercial agents; and the organisation of trade fairs.

- **services provided to both business and to consumers:** estate agents and letting agents; conveyancing; construction services such as architects and builders; restaurants and catering services; distributive trades; postal services; storage services; and financial advisers.
- **consumer services:** tourism, including tour operators and tour guides; travel agents; leisure services and sports centres; child minders; amusement parks; private schools and universities; providers of post graduate studies, language schools, vocational training; driving instructors; MOT services; entertainment; beauty services; veterinarians; gardeners; cleaners; plumbers; joiners; and electricians.

5 Which services are excluded from the Regulations?

A service is within scope of the Regulations unless it is **explicitly** excluded from them. The main exclusions, as set out in Regulation 2(2), are:

1. **financial services**, such as banking, credit, insurance and re-insurance, occupational and personal pensions, securities, investment funds, payment and investment advice, including the business of credit institution;
2. **electronic communications services and networks** and associated facilities and networks, as defined in five other 2002 Directives which also relate to electronic communications;⁶
3. **transport services** including air transport, maritime and inland waterways transport (including port services), as well as road and rail transport, in particular urban transport, taxis and ambulances. Examples of services which are not covered by this exclusion (and are therefore covered by the Regulations) are removal services, car rental services, funeral services and aerial photography services. The exclusion also does not cover commercial activities in ports such as shops and restaurants;
4. **services of temporary work agencies.** The government's view is that this exemption covers only the hiring out and placement of workers in temporary work and does not cover other services provided by the same agency;
5. **healthcare services.** This exclusion covers healthcare and pharmaceutical services provided by health professionals to patients to assess, maintain or restore their state of health where those activities are reserved to a regulated health professional;
6. **audio-visual services**, including cinematographic services, whatever their mode of production, distribution and transmission, and radio broadcasting;
7. **gambling services**, which involve wagering a stake for monetary value in a game of chance, including lotteries, gambling in casinos and betting transactions;
8. Activities connected with the exercise of **official authority**;
9. **social services** relating to social housing, childcare and the support of families in need,

6. These Directives were largely implemented in the UK by the Communications Act 2003. Such services and networks include, for example, voice telephony and electronic mail services.

where these are provided by the State, by providers mandated by the State or by charities recognised as such by the State. The government's view is that services provided on a charitable basis by Registered Social Landlords are out of scope of the Regulations. Services provided on a commercial basis by charitable organisations or their trading subsidiaries are, however, in scope of the Regulations;

10. **private security services;**

11. services provided by **notaries and bailiffs** appointed by an Act of Parliament.

Taxation is also excluded from the Regulations.

6 Guidance for UK Competent Authorities

6.1 What is a UK Competent Authority?

A Competent Authority is defined as a body with a regulatory or supervisory role over the provision of a service, such as a professional body; for example, the Institute of Actuaries or a central or local government authority.

In broad terms, a Competent Authority is a body which regulates specific activities related to service provision, or which is responsible for authorisations and/or other formalities (registers, licences, permits, notifications), with which a business must comply in order to provide a service in scope of the Regulations.

Government departments, devolved administrations, local authorities, large UK regulators (e.g. the Health and Safety Executive), sector specific regulators (e.g. Ofsted and the Care Quality Commission), self-regulatory professional bodies and others **are Competent Authorities for the purposes of the Regulations.**

A Competent Authority introducing new rules or requirements for businesses should use the flowcharts in Annex A to understand if the actions are necessary. This only applies to bodies whose authorisation is obligatory.

For example, in the UK, the title 'architect' is protected by law. Architects wishing to practice using that title in the UK must register with the Architects Registration Board (ARB), which is the UK's statutory regulator of architects. Therefore, the ARB is the Competent Authority.

This can be contrasted with the rules applying to hairdressers. Although there may be benefits to a hairdresser joining the Hairdressing Council before offering their services in the UK, it is not compulsory to do so to provide hairdressing services or to be called a hairdresser. A hairdresser can work in the UK without joining the Hairdressing Council, and so the Hairdressing Council is not a Competent Authority. This position would change if it became obligatory for a hairdresser to join the Hairdressing Council before offering their services in the UK.

Some businesses may only need to seek authorisation for a specific activity which they carry out as part of their overall service, rather than for their entire service. As this would be an obligatory requirement affecting the exercise of a service, the authorising body will be a Competent Authority for the purposes of the Regulations.

For example, builders in general do not have to obtain a licence from the Environment Agency before operating in the UK. However, they may need a licence or a permit from the Environment Agency in order to manage waste. The Environment Agency is, therefore, the Competent Authority with respect to those builders who manage waste.

6.2 Roles & Responsibilities

Competent Authorities are advised to ensure authorisation schemes and requirements imposed on businesses follow the Regulations.⁷ These bodies are obligated not to impose disproportionate or unnecessary requirements on businesses, who seek to provide services unless justified. Competent Authorities are encouraged to review the Regulations.

Local Authorities introducing new requirements, which are derived from existing or new local legislation (local Acts, county Acts, byelaws) for businesses are obligated to comply with the Regulations. This extends to administrative or procedural rules and practices, and conditions attached to licences, which are part of authorisation processes.

Annex A can assist in determining next steps when setting up a new policy, new rules or creating a new Competent Authority. Annex B can be used to determine if new authorisation schemes for new businesses, and new requirements imposed on existing businesses, comply with the Regulations.

6.3 Handling authorisations, licensing & administrative procedures

Handling applications from businesses

All authorisations, licence applications and administrative procedures applicable to businesses must be processed within a reasonable time period, which must be fixed and made public in advance. Mandatory timescales will run only from the time when all valid documentation has been submitted, online and/or by post.

Procedures and formalities must be made easily accessible and must not be dissuasive, unduly complicated or delay the provision of the service.

When a response to an application does not occur within the time period set, the authorisation will be deemed to have been granted tacitly. Therefore, if the Competent Authority does not process an application in time, the applicant can presume their application has been authorised. This concept of tacit authorisation can be circumvented if a derogation can be justified by an Overriding Reason Relating to the Public Interest (ORRPI) (please see the Glossary for a full explanation of ORRPI).⁸

In the case of an **incomplete application, the applicant must be informed as quickly as possible** of the need to supply any additional documentation. The fixed time period only starts when all valid documentation has been submitted by the business.

7. Devolved administrations have consented to follow the Regulations.

8. This provision does not affect bodies already caught by the Recognition of Professional Qualifications Regulations.

In exceptional circumstances, the time period may be extended by the Competent Authority once. This can only be done if a sufficiently complex issue arises in the course of an application. The applicant must be notified of the extension and its duration before the original time period has expired.

Conditions for the granting of authorisation

An authorisation scheme provided by a Competent Authority must be based on criteria which preclude the Authority from exercising its power of assessment in an arbitrary manner.

The criteria must be:

- a. justified by an overriding reason relating to the public interest;
- b. proportionate to that public interest objective;
- c. clear and unambiguous;
- d. objective;
- e. made public in advance; and
- f. transparent and accessible.

Duration of authorisation

An authorisation granted to the provider of a service by a Competent Authority under an authorisation scheme must be for an indefinite period, except where:

- a. the authorisation
 - i. is automatically renewed, or
 - ii. is subject only to the continued fulfilment of requirements;
- b. the number of available authorisations is limited by an overriding reason relating to the public interest; or
- c. a limited authorisation period can be justified by an overriding reason relating to the public interest.

However, Competent Authorities can set a maximum period after authorisation is granted in which the business must commence the permitted activity.

Acknowledging applications

All received applications must be acknowledged. You must make applicants aware of the following:

- whether or not tacit authorisation applies;
- the time period within which you can expect the authorisation to be granted;
- the available means of redress.

The Competent Authority must provide these details when inputting new applications onto their own website and update the relevant page on GOV.UK.

Fees

Fees charged by a Competent Authority under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities (see 18(4) of the Regulations).

Fees should not be used as an economic deterrent to certain activities or to raise funds. If a business believes the fee to be disproportionate, they can contest it with the concerned Competent Authority. Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of its fees having been used to subsidise successful competitors.

Court judgements to reinforce Regulation 18(4)

Competent Authorities should take note of two judgements where fees charged at the point of application were found to be unlawful because of non-compliance.

The UK court ruled in the case of Gaskin vs London Borough of Richmond, the owner of a house in multiple occupation (HMO) was providing a “service” for the purposes of

these Regulations. The licensing provisions of the Housing Act 2004 Pt 2 were acting as an authorisation scheme for the purposes of these Regulations. The Competent Authority was not entitled to demand that the owner pay an application fee of £1,799 when applying to renew his licence for the HMO which encompassed the costs of enforcing the licencing scheme. This fee infringed Regulation 18(4) as it was not limited to the costs of the procedures and formalities of the authorisation scheme under Pt 2 of the Act.

The UK court ruled in the case of Hemming vs Westminster City council, the Council could not include the costs relating to the management and enforcement of the authorisation scheme within the payment of a fee even if the enforcement part of the fee is refundable should the application be refused.⁹

Territorial requirements

A business must be able to have access to the service activity, or to exercise that activity, throughout the UK by virtue of an authorisation granted under an authorisation scheme by a Competent Authority whose functions relate to the whole of the United Kingdom.

Competent Authorities whose functions relate only to part of the United Kingdom (a “territorial authority”) should facilitate the recognition of authorisations granted under an authorisation scheme by other territorial authorities.

9. R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City council (Appellant) (www.supremecourt.uk/Competent-Authorities/docs/uksc-2013-0146a-judgment.pdf).

The Regulations implement a form of mutual recognition in order to ensure that a licence issued by a territorial authority will, where appropriate, allow a business to provide the service throughout the whole of the UK.¹⁰

Exception to the requirement for UK-wide applicability is provided for where an authorisation for each individual establishment or a limitation of the authorisation to a particular part or area of the UK is justified by ORRPI.

Prohibited requirements

A Competent Authority must not make access to, or the exercise of, a service activity subject to any of the following:

- a. the case-by-case application of an economic test making the granting of authorisation subject to—
 - i. proof of the existence of an economic need or market demand,
 - ii. an assessment of the potential or current economic effects of the activity, or
 - iii. an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the Competent Authority.
- b. the direct or indirect involvement of competing operators, including within consultative bodies:
 - i. in the granting of authorisations, or

- ii. in the adoption of other decisions of the competent authorities;
- c. an obligation
 - i. to have been pre-registered, for a given period, in registers held in the UK, or
 - ii. to have previously exercised the activity for a given period in the UK.

Commercial communications

A Competent Authority must not impose total bans on commercial communications by regulated professions (this means complete bans on all forms of advertising, as well as on a specific form of advertising such as TV advertising).

Commercial communications must comply with professional rules relating to the independence, integrity and dignity of the profession in question, as well as to professional secrecy, in a manner consistent with the specific nature of each profession. These professional rules must be justified by an ORRPI, and proportionate.

Multidisciplinary activities

Businesses are not restricted from engaging in multidisciplinary activities. There are no obligations for providers to engage exclusively in a specific service activity, or do anything that restricts the exercise, jointly or in partnership, of different activities.

10. Explanatory Memorandum to The Provision of Services (Amendment) Regulations 2014 No. 1937 (www.legislation.gov.uk/ukxi/2014/1937/pdfs/ukxiem_20141937_en.pdf).

However, this requirement may be imposed on a regulated profession if it is justified in order to guarantee compliance with the rules governing ethics and conduct in that profession and is necessary to ensure the impartiality and independence of the profession. Also, the Competent Authority may impose a requirement on providers of certification, accreditation, technical monitoring, test or trial services where this is necessary to ensure the independence and impartiality of the provider.

Where multidisciplinary activities are permitted, the Competent Authority must ensure that conflicts of interest are avoided, independence and impartiality are secured, and relevant professional rules are compatible.

Selection from among several candidates

A Competent Authority can limit the number of authorisations under a scheme for a given service if there is limited availability of natural resources or technical capacity. The selection procedure established by the Competent Authority must fully secure impartiality and transparency, including adequate publicity about the launch, conduct and completion of the procedure.

Authorisation granted by the Competent Authority must be granted for an appropriate limited period and may not be open to automatic renewal or confer any other advantage on a previously authorised candidate or on a person having any particular links with such a candidate.

Enabling new businesses to grow and reducing barriers to entry

In addition, a business should not have to satisfy criteria when applying for authorisation if equivalent or essentially comparable requirements or controls in the UK have already been met.

The Competent Authority may request proof of compliance and such a proof must be furnished if requested within a reasonable time of being asked, otherwise the Competent Authority may subject the applicant to duplicate requirements.

Competent Authorities can only impose certain other requirements if these are **necessary and proportionate**. These requirements include:

- limits on the number of businesses according to the population size or a minimum geographical distance between businesses providing the same service;
- allowing or disallowing a service to be provided by a business taking a specific legal form, for example, a company with individual ownership;
- requirements relating to the shareholding of a company.

A '**necessary**' requirement is one that is justified by ORRPI, for example, public policy, public security, public health, protection of the environment, animal welfare, or road safety.

A **'proportionate' requirement** must not go beyond what is necessary to attain the policy objective pursued and must be suitable for attaining it. It must not be possible to replace any retained barrier with other, less restrictive measures that achieve the same result.

6.4 Requirements for new policies, rules or creating a new Competent Authority

The Annexes for this document contain the following information:

1. Flowcharts (Annex A) to determine next steps when:
 - Setting up new policy;
 - New rules;
 - Creating a new Competent Authority.
2. Compliance with the Regulations of new authorisation schemes that are imposed on businesses planning to establish in the UK (Annex B);
3. Compliance with the Regulations of new requirements that are imposed on businesses operating in the UK (Annex C).
4. A glossary of terms used in this guidance (Annex D).

6.5 Informing the Secretary of State

Competent Authorities responsible for imposing requirements of the type referred to in Regulation 22 of these Regulations, will need to notify the Secretary of State for the Department of Business, Energy and Industrial Strategy.

Notifications must be addressed to the Secretary of State and sent via: servicesregulations@beis.gov.uk.

7 Guidance for Businesses

The Regulations apply to all businesses operating in a services sector and work on the principle of ‘if you’re not excluded, you’re in’, so examining the list of excluded sectors may clarify what is in scope (see above in Section 5). The Regulations contain rules relating to the provision of services by “permanent” providers. **Permanent providers are those (whether individuals or companies) who are “established” or based at premises in the UK.**

If a business is within the scope of the Regulations certain requirements will need to be observed regarding the provision of information to service recipients and the handling of complaints. These duties apply to all providers operating in the UK regardless of where they originate.

The aim of these requirements is to ensure that service recipients have access to a minimum amount of information and to a complaints procedure. This should enable recipients to make more informed decisions when considering whether to buy services from a particular provider and should widen the choice of providers available to them.

These requirements should be read alongside the requirements of the relevant consumer law including, ‘The Consumer Protection from Unfair Trading Regulations 2008’ (also known as the CPRs),¹¹ ‘The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013’ (CCRs)¹² and ‘The Consumer Rights Act 2015’ (CRA),¹³ as well as any other legislation that may require the business to provide information to service recipients.

The business must make available contact details where recipients can request information or make a complaint and where relevant comply with ‘The Alternative Dispute Resolution for Consumer Dispute (Competent Authorities and Information) Regulations 2015’.¹⁴

7.1 Information which must be available to the end-consumer

If the service falls within scope the following information must be made available:

- a. the name of the business;
- b. legal status and form (for example, whether the business is a sole trader or limited company);

11. The Consumer Protection from Unfair Trading Regulations 2008 (www.legislation.gov.uk/ukSI/2008/1277/contents/made).

12. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (www.legislation.gov.uk/ukSI/2013/3134/contents/made).

13. The Consumer Rights Act 2015 (www.legislation.gov.uk/ukpga/2015/15/contents/enacted).

14. The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (www.legislation.gov.uk/ukSI/2015/542/made).

- c. the geographic address at where the business is established and direct contact details (for example an email address or a number for text messages);
- d. if the business is registered in a trade or other similar public register, the name of that register and registration number, or equivalent means of identification in that register. For example, if the business is registered with the “Gas Safe Register” (www.gassaferegister.co.uk), please state that this is the case and provide the ID number or registration number;
- e. if the business is subject to an authorisation scheme in the UK, the particulars of the relevant Competent Authority or website address (i.e. where details of the Competent Authority can be found);
- f. the VAT identification number, if the business exercises an activity which is subject to it;
- g. if the business is carrying on a regulated profession, any professional body or similar institution with which persons are registered and the professional title. So, for example, an insolvency practitioner might state “I am licensed to act as an insolvency practitioner in the UK by the Association of Chartered Certified Accountants”;
- h. the general terms and conditions, if any, that are used by the business;
- i. the existence of contractual terms, if any, that the business uses concerning the competent courts (for example, that the English Courts have jurisdiction) or the law applicable to the contract (for example, that it is governed by Scots law);
- j. the existence of an after-sales guarantee, if any, not imposed by law. For example, a window fitter may provide a guarantee that they will make any repairs to the windows if anything were to go wrong within a year of fitting them;
- k. the price of the service, where a price is pre-determined by the business for a given type of service. For example, the price per copy a photocopying service charges would be a pre-determined price;
- l. the main features of the service, if not already apparent from the context;
- m. if the business owner is subject to a requirement to hold professional liability insurance or a guarantee, information about the coverage and the contact details of the insurer or guarantor and the territorial coverage. It is not expected that full details of the insurance held to be made available but the Consumer Protection Regulations may require such policies to be made available to recipients. Where it is the case that only the business, as the provider, can lodge a claim with the insurer, or that the insurer will only deal with the business as the provider, this provision does not change that. In other words, this provision does not change the recipient’s legal rights with regards to the insurer.

The business must make available contact details where recipients can request information or make a complaint. This must include a telephone number and one or more of the following: a postal address, fax number or email address. Where an official address exists, this should be given (that is, an address required by law for receiving communications). If this is the same as the postal address, there is no need to give it twice.

A business must supply details of dispute resolution procedures to a service recipient, if the owner of the business is subject to a code of conduct or is a member of a trade association or professional body. The information about a dispute resolution and how to avail it, should be included within documents that describe the business service.

Information must be made available to the recipient if it:

- a. is supplied by the provider to the recipient on the provider's own initiative;
- b. is easily accessible to the recipient at the place where the service is provided or the contract for the service is concluded;
- c. is easily accessible to the recipient electronically by means of an address supplied by the provider; or
- d. appears in any information document supplied to the recipient by the provider in which the provider gives a detailed description of the service.

7.2 Information which must be supplied if asked

The following information must be supplied if requested by the recipient:

- a. where the price is not pre-determined by the business for a given type of service, the price of the service or, if an exact price cannot be given, the method for calculating the price so that it can be checked by the recipient, or a sufficiently detailed estimate;
- b. if the business is carrying out a regulated profession, a reference to the professional rules applicable and how to access them – so recipients can easily find the rules, for example, on a website;
- c. information on any other activities carried out by the business, which are directly linked to the service in question and on the measures taken to avoid conflicts of interest. That information should be included in any information document in which detailed description of the services are shared;
- d. any codes of conduct and the websites on which these codes are available, specifying the language version available.

Businesses are required to share information¹⁵ in a clear and unambiguous manner so that it can be easily understood, taking into account the choice of words and style, as well as factors such as the format and structure.

15. Businesses must provide the following to service recipients: Business contact details; Information about dispute resolution; Complaints procedure.

The information must also be given in good time before the contract is concluded or before the service is provided when there is no written contract. This is so that the recipient has enough time to digest the information and change their mind about entering into the contract. However, this doesn't apply if the consumer only asks for the information after conclusion of the contract.

7.3 Dealing with complaints

Contact details of where customers can make a complaint must be readily available.

Complaints should be responded to as soon as possible. Because the nature of complaints and circumstances vary so much, these Regulations do not define this further or set a time limit, but factors to consider include:

- the means and ease by which the recipient can be contacted;
- the nature and complexity of a specific Competent Authority;
- the availability of the complainant;
- whether information is needed from a third party;
- language needs.

The business must also make the best efforts to find a satisfactory solution to complaints. However, this is not expected in the case of vexatious complaints, such as complaints that are unsubstantiated or malicious. This provision

should not be used as an excuse to avoid replying to complaints that are merely annoying or inconvenient to the service provider.

7.4 Enforcement

The Enterprise Act 2002, specifically Part 8, enables enforcement bodies such as the Competition & Markets Authority (CMA),¹⁶ local weights and measures authorities (local authority Trading Standards) and the Department for the Economy in Northern Ireland to take action against breaches of certain consumer laws where this harms the collective interests of consumers, i.e. it must affect or have the potential to affect consumers generally or a group of consumers.

Enforcers have the same powers to take action when there has been a breach of the obligations in these Regulations to provide particular information or respond to complaints.

Part 8 of the Enterprise Act 2002 does not apply in relation to business-to-business transactions. Where there is harm to a business recipient, it can seek redress on its own initiative. However, if a provider serves both businesses and consumers then Part 8 could be applicable.

Part 8 cannot be used to intervene in individual consumer disputes with providers and, in such cases, service recipients have the right to take action through the courts. However, it could apply if there has been harm to an individual consumer and there is potential for further harm to the collective interests of consumers.

16. Enterprise Act 2002 (<https://www.legislation.gov.uk/ukpga/2002/40/contents>); Consumer Protection Enforcement Guidance (www.gov.uk/government/uploads/system/uploads/attachment_data/file/546521/cma58-consumer-protection-enforcement-guidance.pdf)

7.5 Other obligations on businesses

Competent Authorities granting authorisation for a new business must not duplicate requirements and controls, to which the business is already subject to, and that are equivalent or comparable regarding their purpose. This does not apply if the business has not provided necessary information within a reasonable time after being requested to do so.

The business must inform the Competent Authority of the following changes—

- a. the creation of subsidiaries whose activities fall within the scope of the authorisation scheme;
- b. changes in the situation of the business that result in the conditions for authorisation no longer being met.

8 The Relationship with other legislation

Regulation 6 explains the relationship with other legislation. This only applies to requirements in legislation passed or made before the enactment of the Provision of Services Regulations 2009 or in direct EU legislation saved into UK law by the European Union (Withdrawal) Act 2018 (and the EU legislation was in force before the 2009 Regulations were made).

Specific requirements governing service activities in earlier domestic legislation implementing EU law, or in retained direct EU legislation, take precedence over these Regulations if it is impossible for a Competent Authority to comply with those requirements and the requirements of these Regulations.

The [Recognition of Professional Qualifications Regulations 2015](#) (“the MRPQ Regulations”)¹⁷ have similarities with the Regulations, which have been amended to fix deficiencies arising from withdrawal from the EU.¹⁸

Professional bodies in scope of the MRPQ Regulations still need to assess their authorisation schemes against the Regulations, which contain provisions relating to the duration of authorisations granted to businesses.

Because of rules already imposed by the MRPQ Regulations, Competent Authorities who oversee authorisation schemes already affected by the MRPQ Regulations are not required to impose a fixed timescale for processing applications and the concept of tacit consent.

Competent Authorities whose regimes are already affected by the MRPQ Regulations will still have to review their rules against the ‘prohibited requirements’ and ‘requirements to be evaluated’ in the Regulations.

The remaining provisions of the Regulations will still apply to bodies already featured under the MRPQ Regulations, including the Quality of Services and Point of Single Contact provisions that are covered in more detail elsewhere in this guidance. For example, all Competent Authorities will have to ensure their application procedures can be completed electronically.

17. The EU law was the Mutual Recognition of Professional Qualifications Directive 2005/36/EC.

18. The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2018 (<http://www.legislation.gov.uk/ukdsi/2018/9780111177501/contents>).

9 Digital

The Competent Authority must put the relevant authorisation scheme on their own website enabling a business to apply and pay relevant fee based in the Regulations (see Regulation 38). The Authority must update the relevant pages on GOV.UK.

The Competent Authority is responsible for ensuring that information on GOV.UK is kept up to date and ensuring that their own website continues to meet the information requirements set out in the Regulations. The Competent Authority's own information, for example, any changes to fees, the time taken to process an application, tacit authorisation and contact details, must be kept up to date on its own website.

General information held on GOV.UK about licensing regimes will be reviewed as part of the Government Digital Services' (GDS) rolling programme of regular reviews of the site content. GDS will do this in consultation with a designated person within the relevant department or authority (a "proxy approver") who will be responsible for authorising any amendments to the business information. Local authorities will also need to maintain a list of the authorisation schemes they administer through their own websites.

In the case of national regulators and professional bodies, much of this content is provided by these bodies initially and they will be expected to approve changes thereafter.

Businesses can access information and apply for authorisations on GOV.UK under 'Business and self-employed' (www.gov.uk/browse/business).

9.1 Developing electronic application forms

An electronic application must do all of the following:

- be in a format that can be submitted genuinely electronically (i.e. not need an original signature and have to be posted or faxed in);
- have the ability to accept other electronic documents, if needed;
- provide for electronic payment of the fee (if applicable);
- if a signature is required, the application should have the ability to accept and validate a signature at the appropriate level of security or higher, up to and including a Qualified Electronic Signature.¹⁹

19. As defined by The Electronic Identification and Trust Services for Electronic Transactions (Amendment etc.) (EU Exit) Regulations 2019 (www.legislation.gov.uk/uksi/2019/89/memorandum/contents).

Furthermore, if the application is sent electronically, the response and application outcome notification must also be electronic (though a physical copy can be sent subsequently).

An online application form on the website will need to:

- provide an appropriate link to the GOV.UK site;
- ensure their own website meets the information requirements of the Regulations, including details on fees, timescales, tacit authorisation, contact details for a specific authorisation; and for a local authority, any local requirements or conditions that also need to be met;
- provide information on their own website about what public registers are available, how they can be accessed and, where appropriate, provide a link to that page;
- identify the means of redress which are generally available in the event of a dispute;
- provide the contact details of other associations or organisations from whom an applicant may obtain practical assistance;
- ensure their own website is able to accept electronic payments.

Electronic signatures

There is no general requirement to possess a digital signature in order to use the GOV.UK online forms. However, a digital signature can be used, and the information will be passed on to the Competent Authority. Individual formalities may have additional requirements in terms of identity or commitment that could be met by a digital signature. In these instances, the information about the formality will give full details of the requirements and the available options for meeting it.

Applying online

Most authorisation schemes can be accessed and applied online using GOV.UK. Applicants should visit the website of the relevant Competent Authority to identify the exact application process. Competent Authorities are obliged to meet the government's accessibility requirements, digital services must:

- meet level AA of the Web Content Accessibility Guidelines as a minimum;²⁰
- work on the most commonly used assistive technologies²¹ - including screen magnifiers, screen readers and speech recognition tools;
- include people with disabilities in user research.²²

20. Web Content Accessibility Guidelines (www.gov.uk/service-manual/helping-people-to-use-your-service/understanding-wcag-20).

21. Testing with assistive technologies (<https://www.gov.uk/service-manual/technology/testing-with-assistive-technologies>).

22. User research (<https://www.gov.uk/service-manual/user-research>).

If the service (or any part of it) cannot be made accessible, contact the GDS accessibility team for advice at

accessibility@digital.cabinet-office.gov.uk.

More information on 'Accessibility and assisted digital' is available on GOV.UK.²³

9.2 Access to authorisations for overseas businesses

The great.gov.uk site supports all businesses under the section "Business and self-employed", with the aim of enabling businesses from across the world²⁴ that may be unfamiliar with the UK to:

- be clear about the basis upon which they can provide their services on a temporary or cross border basis;
- access summaries of more detailed guides held elsewhere on the GOV.UK site.

Overseas businesses can search for information relevant to their sector, apply remotely online and track the progress of their applications in a similar manner to an UK user.

23. Accessibility and assisted digital (<https://www.gov.uk/service-manual/helping-people-to-use-your-service>).

24. Further information on UK business investment and Foreign Direct Investment (FDI) opportunities can be found on <https://invest.great.gov.uk/>.

10 Data Protection

The GOV.UK website is currently managed by GDS and operated by the UK Cabinet Office. Information entered onto the site will only be used in accordance with UK data protection legislation and those regulating Cabinet Office's functions.

For further information, please refer to the site's privacy policy, which can be accessed by clicking on the relevant link at the bottom of the GOV.UK website.

Example of securing authorisations from multiple sources via GOV.UK (This example is fictitious)

Andrew works for a Birmingham-based business that is looking to provide local activities across the UK that he thinks will require him to apply for Temporary Events Notices. He has identified several possible locations in Brighton, Eastbourne, Cardiff, Swansea, Newcastle, Durham, Edinburgh, Glasgow, Belfast, Doncaster and Leeds. He remembers that the GOV.UK site had relevant information on securing licenses, so he visits the site and searches for

Temporary Events. He quickly identifies the relevant information about the Competent Authority for each location, what he must provide to each one and how long the applications should take. Along the way, by entering the relevant postcode, he establishes that the venue near Brighton City Airport he thought was in Brighton and Hove actually comes under the jurisdiction of the neighbouring authority of Adur.

Andrew now has the information he needs to plan his events. He notices that the site also offers him the opportunity to apply online.

Andrew spends the next few days studying the information he has found, finalising his list of venues and pulling together all the supporting material he will need for his applications. He uses the online forms provided by GOV.UK to apply for temporary event licences in four different locations and the system generates a form with the relevant council heading and contact details.

Andrew spends time to set up an account on the website for each council and

completes the relevant online forms with the event information. He has to provide payment details to the relevant council payment engine. He was able to submit the forms straight away and he can expect a response from three of them within 10 working days and the other in 14 days. Once the relevant council has received the form they acknowledge receipt.

Twenty-four hours later Andrew can see that the status on all but one of the applications has changed from “pending collection” to “receipted” but the fourth reads “on hold” and a new message has been received relating to it. Andrew opens the message and finds that he has left out the agenda with event start and finish times from his application submission and is able to rectify that and upload it as an attachment.

The council will then be notified it has a further piece of information to collect and once satisfied will change the status of the application from “on hold” to “checked”. Once each application has been processed fully he will get an email notification from each council to tell him that a response has been sent to him. When he logs back into his account he can see that the status of each has change to “approved” and collect the response from the council that will specify any conditions that may apply to the licence. He is now in a position to put on the events.

11 Annex A: Steps for creating a new Competent Authority, policy and rules

Flowcharts

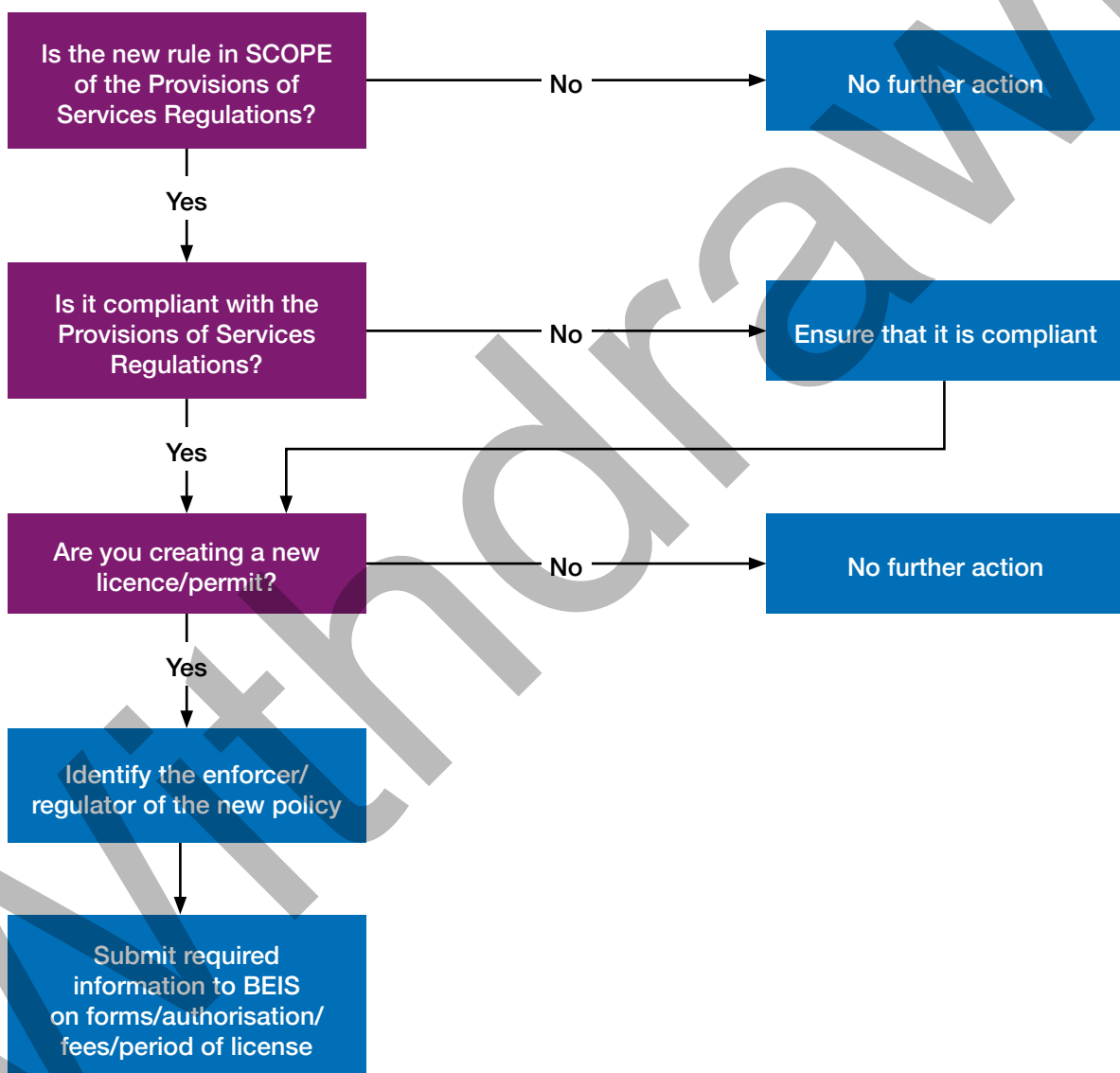
Please use this table to identify which flowchart you need to use.

	Flowcharts which apply	
Government departments (including those in the devolved administrations)	Setting up a new policy	Creating a new Competent Authority*
Local Authorities	Setting up a new policy	New Rules
Existing Competent Authorities**		New Rules
New Competent Authority		New Rules Creating a new Competent Authority

*A new Competent Authority must be compliant with the Regulations.

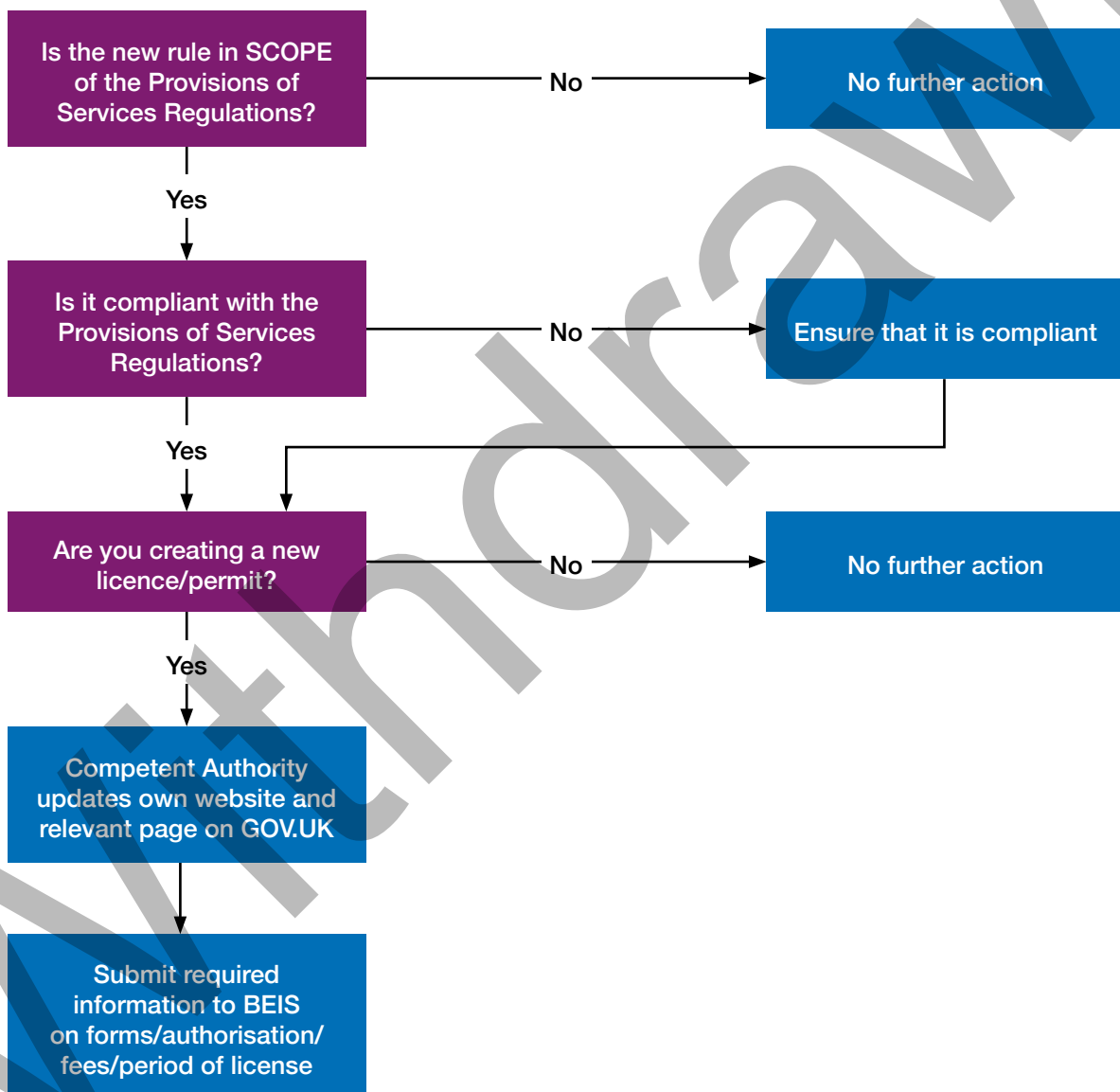
**Competent Authorities include local authorities, Government departments, devolved administrations, licensing and authorisation bodies and other authorities such as professional bodies or bodies who maintain required registers or deliver required training qualifications.

11 Setting up a new policy



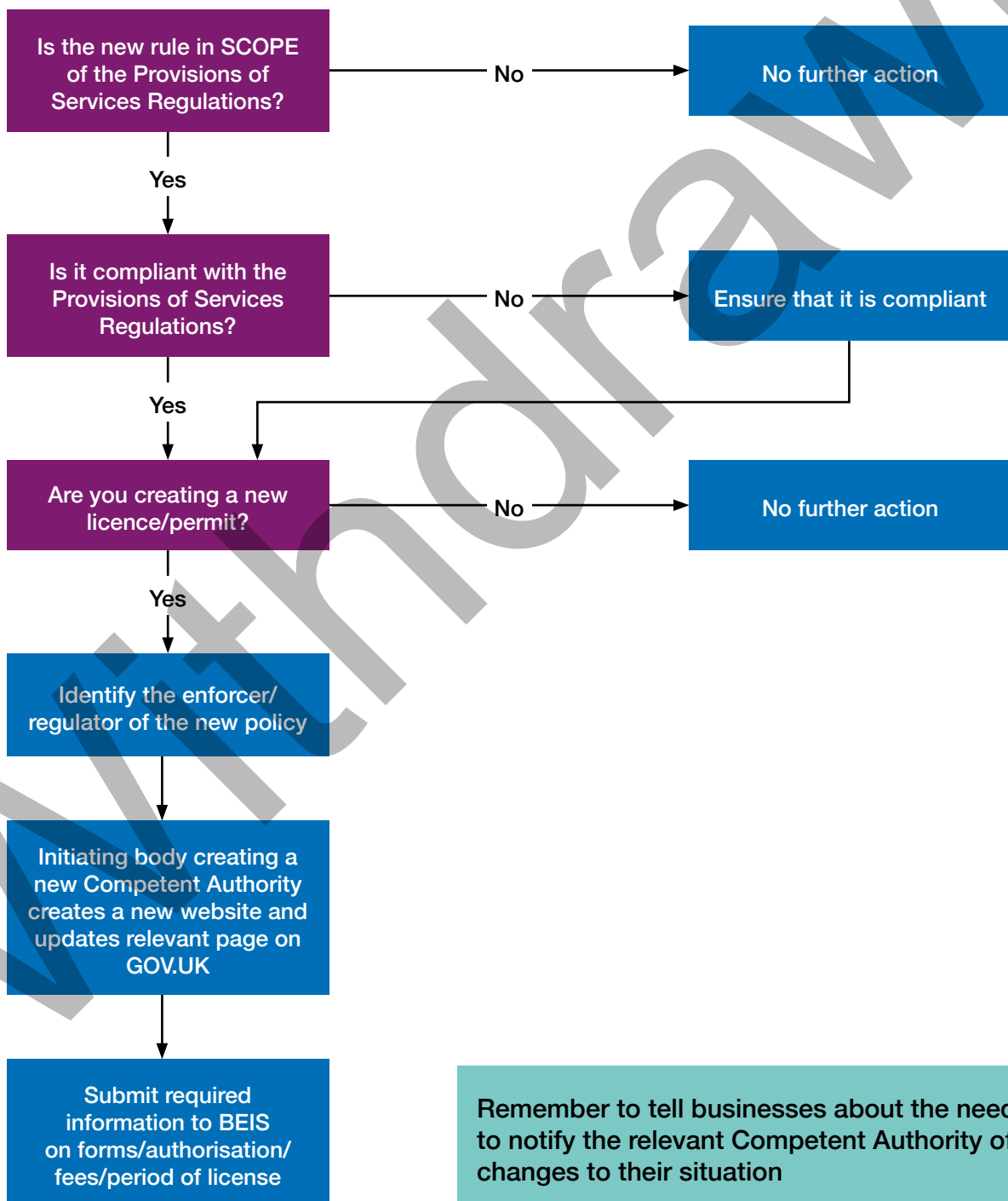
Remember to tell businesses about the need to notify the relevant Competent Authority of changes to their situation

11 New rules



Remember to tell businesses about the need to notify the relevant Competent Authority of changes to their situation

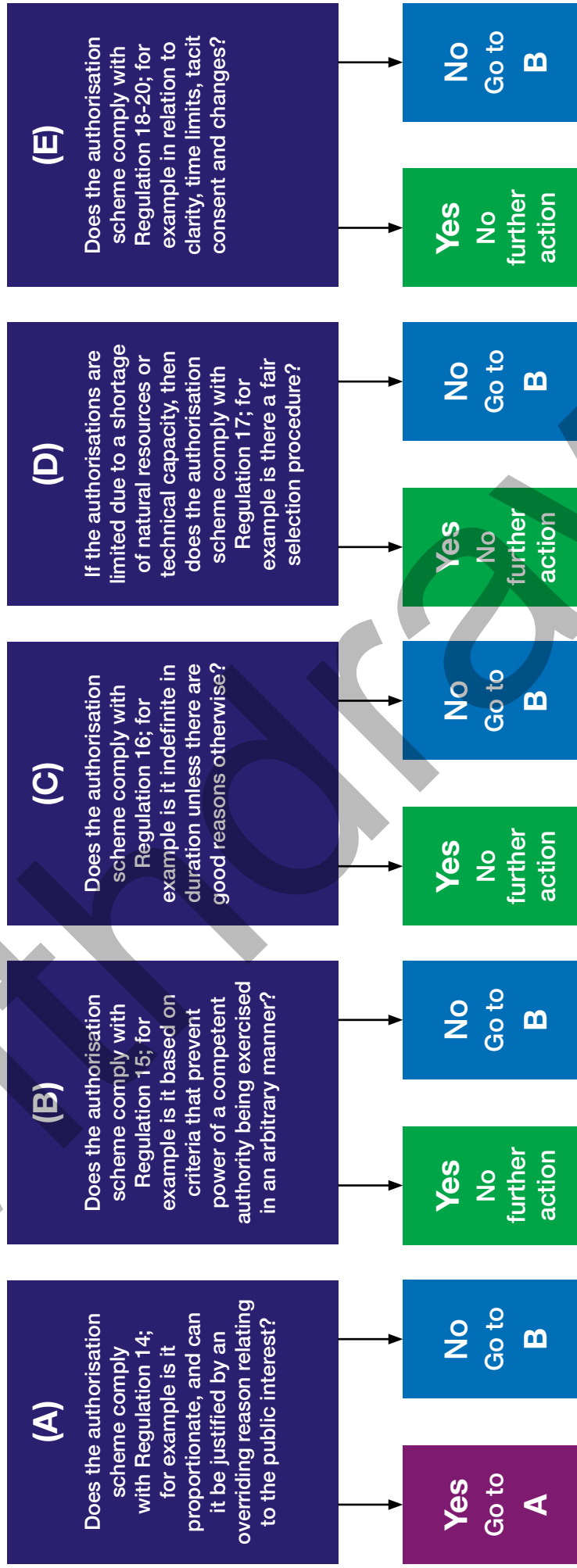
11 Creating a new Competent Authority



Annex B

Check compliance with the Regulations for new authorisation schemes for new businesses

Flowchart to help with checking the compliance with the Regulations of new authorisation schemes that are imposed on businesses who want to establish in the UK. This is a very high-level summary.



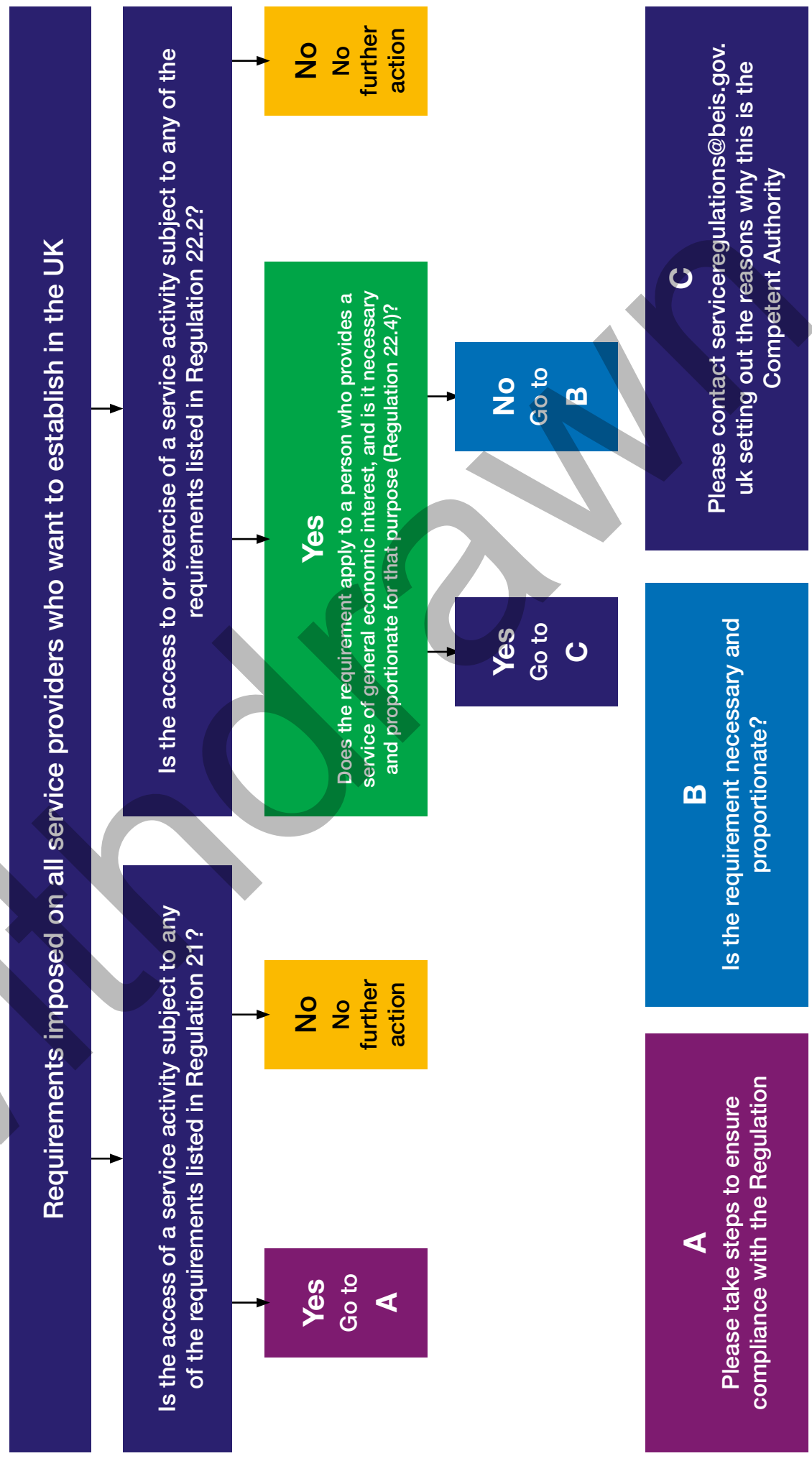
A
Please contact servicesregulations@beis.gov.uk setting out the reasons why this is the Competent Authority

B
Please take steps to ensure that you comply with the Regulations

Annex C

Check compliance with Regulation for new authorisation schemes for existing businesses

Flowchart to help with checking the compliance with the Regulations of new requirements that are imposed on businesses operating in the UK. This is a very high level summary only.



14 Annex D: Glossary

Regulations 2(1), 3 and 4 define certain terms used throughout the Regulations, and Regulations 5(3) and 5(4) explain to whom the Regulations apply. Some of the main words and phrases used in the Regulations and guidance are explained below:

Authorisation scheme	A procedure requiring a business or recipient of services to take steps to notify or obtain a decision from a Competent Authority for the purposes of securing access to, or permission to exercise, a service activity. This includes licences, permits, certification, registration processes and approval systems.
Competent Authority	A body with a regulatory or supervisory role over the provision of a service, such as a professional body; for example, the Institute of Actuaries or a central or local government authority.
Established business	A business with stable business premises in the UK and providing services there on a continuous basis.
Formality	A process where a business is required to give information to a Competent Authority by way of an application, authorisation request, renewal, return, declaration or notification, whether or not a formal response is required before the service provided may commence operation in the UK.
Multidisciplinary activities	Where a business carries out more than one activity or carries out different activities jointly or in partnership.
ORRPI (overriding reasons relating to the public interest)	This means reasons recognised as such in the case law of the Court of Justice of the European Union, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives.

14 Glossary

Provider	A body or individual that provides or offers a service within the UK.
Recipient	A person who, for professional or non-professional purposes, uses, or wishes to use, a service.
Regulated profession	A professional activity or group of activities to which access is subject to the possession of specified qualifications, and the pursuit of which is limited to holders of a given professional qualification.
Service Activity	A self-employed economic activity (normally provided for remuneration).

For more detailed guidance on how the Regulations relate to businesses, please contact a Trade Association in the relevant sector or seek independent advice.

Contact details of many Competent Authorities can be found under 'Business and self-employed' on GOV.UK. Please visit the help page on the site when faced with any problems using the facility or if you need further assistance.