



Department for
Business & Trade

Provision of Services Regulations 2009 (Retained EU Law) Reforms Consultation

13 September 2023

Contents

Background	3
The Provision of Services Regulations 2009	3
Why these reforms are needed	3
Other obligations under the Regulations	4
General information	5
Why we are consulting	5
Consultation details	5
How to respond	6
Confidentiality and data protection	6
Quality assurance	7
Glossary	8
General questions	9
Proposed reforms	11
Section 1: Revise the scope of the Regulations' obligations	11
Section 2: Changes to reduce restrictions on service providers and increase the ease and transparency of application processes	19
Section 3: Removing administrative requirements placed on service providers	31
Section 4: Establish a system for monitoring compliance with the Regulations	33
Section 5: Clarificatory changes and changes to remove references to EU provisions	35
Next steps	37

Background

The Provision of Services Regulations 2009

[The Provision of Services Regulations 2009](#) (“the Regulations”) transposed the EU Services Directive¹ into UK law. They are therefore retained EU law (“REUL”) and subject to the Government’s review into the substance of REUL. The Regulations provide a framework of rules for how services are regulated in the UK. In particular, they ensure that authorisation schemes (e.g., schemes concerning licences that businesses or individuals must secure before providing a service) which are administered by competent authorities (e.g., local authorities and regulators) are proportionate, justified in the public interest, and conducted in a fair, accessible and transparent way for businesses.

The Regulations apply to competent authorities and service providers UK-wide and across the economy, with the exception of 11 specified types of service activity². Over 500 UK competent authorities (which include government departments, arms-length bodies, and local authorities) are in scope of the Regulations. There is currently no definitive understanding of the number of service providers affected by the Regulations. Services covered by the Regulations are wide-ranging, including professional services and other commercial services, and may apply to businesses or to individuals. Examples of services/activities covered by authorisation schemes include, serving alcohol, managing waste disposal, or practising as a solicitor.

Guidance is published on GOV.UK on [“Complying with the Provision of Services Regulations for businesses and competent authorities”](#). *N.B., we will update this guidance following any reform of the Regulations.*

Why these reforms are needed

The Government amended the Regulations in 2018 to ensure that they would be operable following the UK’s exit from the EU. The main changes made at the time were to ensure that the Regulations’ deregulatory principles applied only for the benefit of UK nationals and businesses established in the UK. However, the Regulations are still not as effective as they could be. Evidence from the independent [Evaluation of the Provision of Services Regulations 2009](#) report indicated that there is an appetite for amending the Regulations among both service providers and competent authorities. A range of suggestions were put forward, including reforms to clarify the legislation and to ensure that the Regulations result in authorisation schemes being more transparent, efficient and cost-effective.

The Department for Business and Trade (“DBT”) thereby intends to take advantage of the powers provided in the Retained EU Law (Revocation and Reform) Act 2023 to improve these Regulations. Our aim is to deliver a package of reforms which ensure that the Regulations better meet the needs of UK businesses by reducing regulatory burdens and supporting the UK’s ambitious trade agenda. We want to use this opportunity to raise awareness of the positive impact the Regulations have on the services sector, while concurrently strengthening and maximising the benefits that the Regulations provide.

This consultation forms part of the Government’s Smarter Regulation programme of regulatory reform announcements that began in May with publication of Smarter Regulation to Grow the

¹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

² Under Regulation 2, eleven types of service activity are excluded from scope: financial services, electronic communications, services in the field of transport, services of temporary work agencies, healthcare services, audio-visual services, gambling activities, activities connected with the exercise of official authority, social services, private security services; notaries or bailiffs. *N.B., DBT do not currently have plans to change these exclusions.*

Economy. Smarter regulation is about improving regulation across the board, ensuring it is clear and only used where necessary and proportionate. The proposed reforms aim to support the Government's Smarter Regulation programme and efforts to grow the economy by creating a more streamlined, innovative, and agile regulatory regime for services.

Other obligations under the Regulations

As well as providing a regulatory framework for competent authorities, the Regulations require the Government to maintain an electronic assistance facility for businesses to use to obtain information about the authorisations they need. The Government currently provides this through [Find a Licence](#) (formally known as "Licence Finder") on GOV.UK. The Regulations also contain requirements on service providers for the protection of recipients, e.g., requiring service providers to provide contact details to their customers.

The Government relies on the Regulations as a way of ensuring compliance with its commitments in 'domestic regulation' provisions in Free Trade Agreements ("FTAs") and the World Trade Organisation agreements. They also underpin the UK's international stance as a liberaliser of trade in services. The Regulations enable the Government to agree ambitious commitments in FTAs so that other countries also ensure the transparency and efficiency of authorisation schemes, better enabling UK businesses to operate in foreign markets. This is vital, considering the UK is the second largest exporter of services in the world. In 2022, UK exports of services were £401bn (49% of total UK exports), generating a trade in services surplus of £44bn³.

We want to use the evidence gathered in this consultation, alongside our wider engagement with regulators and businesses, to develop a package of reforms to the Regulations to ensure that the legislation better meets the needs of service providers and to better understand how the Regulations impact the UK services sector as a whole.

³ 'UK Trade in Numbers', Department for Business and Trade, <https://www.gov.uk/government/statistics/uk-trade-in-numbers/uk-trade-in-numbers-web-version>, accessed 5th July 2023

General information

Why we are consulting

The Regulations are retained EU law (“REUL”), as they were made under section 2(2) of the European Communities Act 1972 to transpose the EU Services Directive into UK law. REUL is a category of law established by the European Union (Withdrawal) Act 2018 to maintain legal certainty following EU Exit. The Retained EU Law (Revocation and Reform) Act 2023 allows the Government to amend, revoke, and reform REUL. DBT are using the REUL review as an opportunity to conduct a full review of the Regulations, to explore possible reforms to better meet the needs of UK businesses.

Through this consultation, DBT seeks:

- Views on the proposals set out in this document, as well as the practicalities, impacts, potential costs, and benefits of the proposed new provisions.
- Information about general awareness of the Regulations within the UK services sector.

The proposals to reform the Regulations will primarily affect competent authorities and service providers. We are consulting on proposals that intend to strengthen the provisions which currently exist in the legislation, further driving down administrative burdens on businesses (particularly for small and medium-sized businesses). These proposals include making sure businesses can apply for licences all year round; providing clarity on when competent authorities can derogate from certain requirements of the Regulations; and expanding the benefits of the Regulations to non-UK businesses.

DBT wants to use this opportunity to reform the Regulations to better ensure compliance with the UK’s ambitious provisions in the ‘domestic regulation’ provisions of FTAs, which will in turn support investment in the UK by overseas businesses. We also intend to improve mechanisms to monitor and support competent authorities’ compliance with the Regulations, with the aim of ensuring their authorisation schemes and other requirements on service providers meet the standards required by the reformed Regulations.

The reformed Regulations would meet the REUL review objectives of making the most of the opportunity to improve REUL, following EU Exit, including by lightening the regulatory burden on businesses and helping to encourage economic growth.

Consultation details

Issued: 13 September 2023

Respond by: 7 November 2023 (23:59)

Enquiries to: servicesregulations@businessandtrade.gov.uk

Consultation reference: Reforms to the Provision of Services Regulations 2009 (Retained EU Law)

Audiences: We want to hear from the broad range of competent authorities, service providers, and service recipients associated with the provision of a service.

Territorial extent: We are interested in gathering evidence on a UK-wide basis.

How to respond

The simplest way to respond to this consultation is through our online questionnaire using the Qualtrics link below. We encourage submitting information via Qualtrics where possible as this is the Government's preferred method of receiving responses, which supports timely and efficient analysis. Alternatively, responses via e-mail or a Microsoft Word document submitted via e-mail will also be accepted. If responding via e-mail or a Microsoft Word document, please indicate in your answers which question they relate to in order to support timely analysis.

The evidence received will be taken into account by the Government as it further develops policy proposals to reform the Regulations. When responding, please state whether you are responding as an individual or representing the view of an organisation. Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

The evidence received will be taken into account by the Government as it further develops policy proposals to reform the Regulations.

Respond online at: https://beis.fra1.qualtrics.com/jfe/form/SV_7QGVdmW9csO8dG6

or

Email to: servicesregulations@businessandtrade.gov.uk

A response form is available on the GOV.UK consultation page:

<https://www.gov.uk/government/consultations/provision-of-services-regulations-2009-proposed-reforms>

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses, or other contact details.

Quality assurance

This consultation has been carried out in accordance with the Government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: dit.bru@businessandtrade.gov.uk.

Glossary

The Regulations – The Provision of Services Regulations 2009.

DBT – The Department for Business and Trade.

REUL – Retained EU law

REUL review – Government review of retained EU law.

Overriding reasons relating to the public interest (ORRPI) - Recognised public interest objectives which can justify competent authorities doing or not doing something.

The Regulations also provide the following definitions:

Service – any self-employed economic activity normally provided for remuneration (as referred to in Article 57 of the Treaty on the Functioning of the European Union).

Competent authority – a body or authority having supervisory or regulatory functions in the United Kingdom in relation to service activities (and includes, in particular, a professional body, professional association or other professional organisation, that regulates access to, or the exercise of, a service activity).

Authorisation scheme – any arrangement which in effect requires the provider or recipient of a service to obtain the authorisation of, or to notify, a competent authority in order to have access to, or to exercise, a service activity.

Provider – In relation to a service, means a person who provides, or offers to provide, the service. *N.B. the term ‘person’ includes business undertakings.*

Recipient – In relation to a service, means a person who, for professional or non-professional purposes, uses, or wishes to use, the service. *N.B. the term ‘person’ includes business undertakings.*

Regulated profession – a professional activity or group of activities—

(a) access to which, the pursuit of which or one of the modes of pursuit of which is subject (directly or indirectly) by virtue of legislative, regulatory, or administrative provisions to the possession of specified qualifications, or

(b) the pursuit of which is by persons using a professional title which is limited by legislative, regulatory, or administrative provisions to holders of a given professional qualification.

Requirement – includes any obligation, prohibition, condition, or limit.

General questions

(Questions for all)

1. You can choose whether we can share your responses anonymously, or with your organisation named (although any personal details will be kept confidential). Aggregated and anonymised responses may be shared across government departments and in the public domain. If you are happy for your organisation to be named, you can opt for this to be across DBT, wider government, or the public domain. Which option would you prefer? My organisation is happy to be named when sharing findings...
 - Across DBT only
 - Across DBT and other Government departments
 - Across DBT and other Government departments, and the devolved administrations
 - Across DBT and other Government departments, the devolved administrations AND in the public domain (please note we would check you were content before publishing any findings in which your organisation could be identified)
 - My organisation would prefer to remain anonymous
2. What is your name?
3. What is your email address?
4. What is your organisation?
5. What type of organisation is this?
 - An independent competent authority
 - A Government department
 - A local authority
 - A business or individual providing services
 - Recipient of a service – business
 - Recipient of a service – consumer
 - Other (please specify)
6. Would you be happy for your response to be published in full?
 - Yes
 - Yes, but without identifying information
 - No, I want my response to be treated as confidential

7. Are you happy for your response to be quoted in any potential future publications relating to the Regulations, such as an Impact Assessment?

- Yes
- No

8. How did you hear about this consultation?

- Email from this department
- Email from elsewhere
- GOV.UK alert
- Newsletter
- X (formerly known as Twitter)
- Other (please specify)

(Questions for competent authorities)

9. Are you responsible for an authorisation scheme?

An authorisation scheme is defined in the Regulations as “any arrangement which in effect requires the provider or recipient of a service to obtain the authorisation of, or to notify, a competent authority in order to have access to, or to exercise, a service activity.”

- Yes
- No
 - a. [Please list scheme(s)]

10. Do you consider yourself an authority with regulatory functions in relation to mandatory requirements, other than an authorisation scheme?

Mandatory requirements are obligations or conditions that would, if not complied with, prevent a service provider from having access to or exercising a particular service activity and prohibitions or other limitations that restrict access to or the exercise of a particular service activity by a service provider.

- Yes
- No
 - a. [Please list mandatory requirement(s)]

11. Are you responsible for any voluntary schemes?

Voluntary schemes include schemes where authorisation or notification is not required in order to provide a service activity. These include schemes under which the supply of a service is not restricted (such as chartered status) and schemes that restrict the use of a professional title but not the provision of a service (for example, use of the title “architect” is restricted to certain persons, but the provision of architecture services is not).

- Yes

- No
 - a. [Please list scheme(s)]

12. Are you responsible for any authorisation schemes that regulate the receipt of a service?

- Yes
- No
 - a. [Please list scheme(s)]

Proposed reforms

N.B., we would recommend reading [the Regulations](#), as amended, alongside answering all questions in this consultation.

Section 1: Revise the scope of the Regulations' obligations

The aim of this section is to test proposals that help to ensure the Regulations apply appropriately, primarily by increasing the number of service providers (particularly small and medium-sized businesses) which benefit from the requirements the Regulations place on competent authorities.

A) Expand the scope of the Regulations to foreign service providers

Current provisions: The Regulations currently only apply to UK nationals or business undertakings established in the UK (as set out at [regulation 5\(3\) and 5\(4\)](#)). This means that foreign nationals and foreign business undertakings who apply for authorisations to provide a service in the UK from overseas, are not entitled to the same treatment by competent authorities under the Regulations (unless they first establish themselves as a business undertaking in the UK). In practice, our stakeholder engagement suggests that competent authorities do not apply a substantially different regime to foreign service providers in comparison with domestic service providers.

Proposal: We are considering expanding the scope of the Regulations to also apply to service providers established outside of the UK who are providing services in the UK.

Rationale: This would create a universal standard for low regulatory burdens and one consistent system for all service providers providing services in scope of the Regulations in the UK. It would also ensure better compliance with international trade commitments.

(Questions for all)

1. To what extent do you agree with the proposed change of applying the Regulations to foreign service providers?
 - Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
 - a. [Please explain why]

(Questions for competent authorities)

2. Do you treat service providers who are not UK nationals or established in the UK differently to those who are UK nationals or established in the UK?
 - Yes

- a. [Please explain why, and any relevant legislation that requires this e.g., if you require UK nationality or UK establishment in order to grant authorisation and why]
- No
- b. [Please explain why]
- Not Sure

B) Narrow the scope of the Regulations so that the obligations only apply to competent authorities that have regulatory functions in relation to mandatory requirements

Current provisions: The current definition of “competent authority” in [regulation 3](#) is broad, and includes:

- i) authorities with regulatory functions in relation to mandatory requirements (e.g., authorities imposing and enforcing schemes under which a person must obtain authorisation or must meet a condition in order to provide a service);
- ii) authorities responsible for voluntary schemes, i.e.:
 - a. schemes under which the supply of a service is not restricted (such as chartered status);
 - b. schemes that restrict the use of a professional title but not the provision of a service (for example, use of the title “architect” is restricted to certain persons, but the provision of architecture services is not);
- iii) authorities that just have supervisory but not regulatory functions (and therefore do not impose, secure compliance with, or enforce requirements).

Whilst most provisions of the Regulations just apply to authorities which have regulatory functions in relation to mandatory requirements, there are five regulations in the Regulations (regulations 31, 32, 35, 36, 37) which arguably apply to all these types of competent authorities. These regulations require competent authorities to:

- i) accept documents in accordance with [regulation 31](#), for example, accept a document which serves an equivalent purpose to a document requested;
- ii) ensure that their procedures/formalities are available electronically in accordance with [regulation 32](#);
- iii) not subject service providers to requirements that oblige them to exercise a specific service activity exclusively and that restrict them from exercising other activities in accordance with [regulation 35](#);
- iv) provide certain information, such as contact details, in electronic form to the Secretary of State in accordance with [regulation 36](#); and
- v) provide information on the way in which requirements are interpreted and applied, when requested by a provider or recipient in accordance with [regulation 37](#).

Proposal: We are considering narrowing which competent authorities are in scope of the Regulations (and therefore the above five regulations) so that only authorities which have regulatory functions in relation to mandatory requirements are in scope.

Rationale: This will better align these five regulations with the rest of the Regulations and make it clearer which competent authorities the requirements in the Regulations apply to.

(Questions for all)

3. To what extent do you agree with the proposed change of applying the Regulations to only competent authorities who have regulatory functions in relation to mandatory requirements?
- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why. If you are a competent authority and this change would mean you would no longer be in scope of the Regulations, please explain whether you would continue to act in accordance with the requirements under the five regulations, and provide an estimation of how much time this would save you annually, in hours, if you were no longer in scope]

(Questions for service providers)

4. Please provide any data or evidence concerning whether this change is likely to increase the administrative burden for you as a service provider.

c) Reform the ‘overriding reasons relating to the public interest’ (ORRPI) test and establish a limited list of ORRPIs.

Current provisions: Competent authorities responsible for service sectors in scope of the Regulations are required to comply with the Regulations. The Regulations provide that competent authorities must or must not do certain things when establishing or operating an authorisation scheme, unless the chosen course of action is justified by (and, in some instances, proportionate to) an overriding reason relating to the public interest (ORRPI).

Overall, there are 11 references to ORRPIs in the Regulations. For example, [regulation 14](#) provides that competent authorities must not make a service activity subject to an authorisation scheme except where the need for an authorisation scheme is justified by an ORRPI, and the ORRPI pursued cannot be achieved by means of a less restrictive measure than the authorisation scheme.

The Court of Justice of the EU (CJEU) has previously found that ORRPIs include the following: *public policy, public security and public health; the maintenance of order in society; the protection of the recipients of services; consumer protection; the protection of workers, including the social protection of workers; veterinary policy; the welfare of animals; the preservation of the financial balance of the social security system; the prevention of fraud; the prevention of unfair competition; the protection of the environment and the urban environment, including town and country planning; the protection of creditors; safeguarding the sound administration of justice; road safety; the protection of intellectual property; social and cultural policy objectives, including safeguarding the freedom of expression of various elements, in particular social, cultural, religious and philosophical values of society; fairness of trade transactions; the need to ensure a high level of education; the maintenance of press diversity; the promotion of the national language; the preservation of national historical and artistic heritage; the independence of accounting services; maintaining the good reputation of the financial sector; the protection of the stability of the securities market; the integrity of the flow of trade; safety of maritime transport in ports; the protection of the quality of manufacturing and processing services; the protection of fundamental rights; and the effective collection of tax.*

However, the Regulations do not define what an ORRPI is, and there is no exhaustive 'list' of ORRPIs.

Below is a summary of all 11 times ORRPIs are referenced in the Regulations:

- [Regulation 14](#) – competent authorities must not make a service activity subject to an authorisation scheme, except where the need for the authorisation scheme is justified by and proportionate to an ORRPI.
- [Regulation 15\(2\)](#) – conditions for authorisation must be justified by and proportionate to an ORRPI.
- [Regulation 15\(5D\)](#) – a service provider who has an authorisation for a service activity (granted by a competent authority which has functions relating to the whole of the UK, or only part of the UK) must be able to access or exercise that service activity throughout the whole of the UK, unless the authorisation for each individual establishment or the limitation of the authorisation to a particular part of the UK is justified by an ORRPI.
- [Regulation 16](#) (two references) – authorisations must be granted for an indefinite period, except where the number of available authorisations is limited by an ORRPI, or where a limited period is justified by an ORRPI (or where the authorisation is automatically renewed, or is subject only to the continued fulfilment of requirements).
- [Regulation 17](#) – when establishing the rules for the selection procedure, where the number of authorisations available under an authorisation scheme is limited by the scarcity of available natural resources or technical capacity, competent authorities may take into account ORRPIs.
- [Regulation 19](#) – in the event of failure to process an application for authorisation within the prescribed period, authorisation is deemed to have been granted by a competent authority, unless different arrangements are in place; such different arrangements must be justified by an ORRPI.
- [Regulation 21](#) – competent authorities may impose planning requirements that entail the case-by-case application of an economic test, making the granting of authorisation subject to the proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity or an assessment of the appropriateness of the activity in relation to the economic

planning objectives set by the competent authority, provided those requirements do not pursue economic aims and serve an ORRPI.

- [Regulation 22](#) – competent authorities may only impose certain specified requirements, for example requirements relating to the shareholding of a company, where those requirements are justified by and proportionate to an ORRPI.
- [Regulation 31](#) – where a competent authority requires the provider of a service to supply documents proving that a requirement has been satisfied, the competent authority may not require a document to be produced in its original form, or as a certified copy or certified translation, except where such a requirement is justified by an ORRPI (or provided for in other REUL).
- [Regulation 34](#) – 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 justified by and proportionate to an ORRPI.

ORRPI test: Case law⁴ is clear that, where a measure is required to be justified by an ORRPI and proportionate to that ORRPI:

- a) the measure must pursue an ORRPI;
- b) the measure must be appropriate to achieve that ORRPI; and
- c) it must not be possible for the ORRPI to be achieved by a less restrictive measure.

It is, however, unclear from case law what test is imposed by the phrase in the Regulations “justified by an ORRPI”, where there is no additional requirement for a measure to be proportionate to an ORRPI. This is the case for four regulations in the legislation ([regulation 15\(5D\)](#), [regulation 16](#), [regulation 19](#), and [regulation 31](#)). Similarly, it is unclear what tests are imposed by the two phrases “*limited* by an ORRPI” at [regulation 16\(1\)\(b\)](#) and “*serves an* ORRPI” at [regulation 21\(2\)](#).

Proposal: We are considering amending the Regulations so that, instead of these unclear provisions, the Regulations would require that the measure must be appropriate to achieve an ORRPI. This would require that competent authorities are able to show that what they are doing would objectively be a suitable means of achieving an ORRPI; for example, that a measure would be suitable to protect public health.

Rationale: This should create clarity for competent authorities and service providers, and set a reasonable threshold for competent authorities being able to do certain things, for example request original documents.

Breadth of ORRPIs: We are also considering limiting the breadth of ORRPIs available for the purpose of most provisions in these Regulations. The list above, based on CJEU case law, creates a wide-ranging number of potential ORRPIs that competent authorities could rely on.

Proposal: We consider that the available ORRPIs should not be as wide as they are currently, but should include the following reasons:

- *the protection of the life or health of humans, animals, or plants;*
- *the protection of public safety or security;*
- *the efficient administration of justice;*
- *the protection of the environment (including natural, urban, and historic);*
- *the protection of consumers.*

⁴ See, for instance, *R (on the application of Lumsdon and others) v Legal Services Board* [2015] UKSC 41.

For example, if the ORRPIs were restricted to only the five sets of reasons above, it would mean that, under [regulation 14](#), a competent authority would only be able to establish a new authorisation scheme where it is appropriate and proportionate to achieve one of the above reasons, for example to protect public safety.

However, we propose that competent authorities should be able to continue to rely on any ORRPI in respect of [regulation 15\(5D\)](#).

Rationale: We think a narrower group of ORRPIs would be appropriate for most provisions of this legislation, in order to ensure that the number of circumstances in which competent authorities can impose restrictions on the provision of services and depart from requirements in the Regulations is appropriately bound.

However, we do not think it would be appropriate to limit which ORRPIs are available for [regulation 15\(5D\)](#) so that the current mutual recognition arrangements within the UK, in part established under the [UK Internal Market Act 2020](#), are maintained. For example, if the ORRPIs were limited for regulation 15(5D), more authorisations (e.g., licences) would need to be recognised than previously, which could cause public interest issues for competent authorities and service providers alike. This is because there may be strong public policy reasons for why these authorisations cannot be recognised.

(Questions for all)

5. To what extent do you agree with reforming the ORRPI test to require that competent authorities should ensure that measures are appropriate to achieve an ORRPI, as above?
 - Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree

a. [Please explain why]
6. To what extent do you agree with limiting the ORRPIs to the five sets of reasons above?
 - Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree

a. [Please explain why]
7. Which ORRPIs do you believe should remain if the available reasons were reduced? Furthermore, please explain, for each ORRPI, why you believe they should remain if the available reasons were reduced.

Responses on this issue should focus on reasoned policy and legal justifications for the inclusion of any ORRPIs, providing evidence in support of this where possible.

8. To what extent do you agree with reducing the ORRPIs applicable to some regulations, but not all regulations (e.g., regulation 15(5D))?
 - Strongly Agree
 - Agree

- Neither Agree nor Disagree
- Disagree
- Strongly Disagree
 - a. [Please explain why, specifying, where applicable, which regulations you think any ORRPI should apply to and which regulations you think limited ORRPIs should apply to]

(Questions for competent authorities)

9. Are you aware of which ORRPI(s) you rely on to...

[Please tick the relevant box, and provide the additional information where requested]

	Yes (please list the ORRPI(s))	No	Not sure
justify the existence of your authorisation scheme, under regulation 14 ?			
justify the conditions for authorisation under your scheme, under regulation 15(2) ?			

10. Do you rely on an ORRPI(s)...

[Please tick the relevant box, and provide the additional information where requested]

	Yes (Please list the ORRPI(s) and explain whether you believe your measure would objectively be considered adequate to achieve the ORRPI(s) / would objectively be considered proportionate to the ORRPI(s) / takes into account the ORRPI(s), as applicable)	No	Not sure
under regulation 15(5D) ?			
under regulation 16 ?			
under regulation 17 ?			
under regulation 19 ?			
under regulation 21 ?			
under regulation 22 ?			
under regulation 31 ?			
under regulation 34 ?			

11. If the number of ORRPIs listed above was limited to the five sets of reasons above, would this impact how you regulate services?

- Yes
 - a. [If so, how would it impact you?]
- No
- Not sure

D) Remove provisions giving priority to other legislation

Current provisions: [Regulation 6](#) concerns the Regulations' relationship with other overlapping services legislation. Specifically, it provides that requirements governing service activities in earlier domestic legislation which implemented EU law (or any earlier domestic legislation in the case of Part 3), or in retained direct EU legislation (RDEUL), take precedence over Parts 2, 3, and 6 of the Regulations. That is, if it is impossible for a service provider or competent authority to comply with both those requirements in the other legislation, and the requirements in those parts of the Regulations, they just need to comply with the other legislation.

[Regulation 5\(1\) to \(2A\)](#) provides that the Regulations do not affect certain wider policy areas, for example, that nothing in the Regulations affects the functions of a competent authority in relation to law which relates to employment conditions.

[Regulation 14\(3\)](#) provides that regulations 15 to 20 (concerning authorisation schemes) do not apply to authorisation schemes to the extent that they are governed by earlier domestic legislation implementing EU law or RDEUL.

[Regulation 22\(2\)\(d\)](#) provides that a competent authority must not, unless justified by and proportionate to an ORRPI (see *proposal C for more information on ORRPIs*), impose requirements which reserve access to a service activity to people providing the service, by virtue of the specific nature of the activity, and must notify the Secretary of State, i.e., DBT, of new requirements of this type; except requirements which are provided for in other REUL, or concerning matters covered by REUL that implemented the EU Professional Qualifications Directive⁵.

Proposal: We are considering removing regulation 6, 5(1) to (2A), 14(3), and 22(2)(d) and, instead of regulation 5(1) to (2A), including a provision that makes clear that any requirements that apply to a service provider, but which also apply to persons who are not service providers, are not in scope of the Regulations.

Rationale: Removing these references would make it clearer when the Regulations apply and would ensure the Regulations remove the precedence given to other EU law, which is considered appropriate following EU-Exit.

(Questions for all)

12. Is there any legislation that you consider currently conflicts with the Regulations?

- Yes
 - a. [Which legislation and why?]
- No

⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications

- Not sure

13. Is there any legislation that you consider would conflict with the Regulations if regulations 6, 5(1) to (2A), 14(3), and / or 22(2)(d) were removed?

- Yes
 - a. [Which legislation and why?]
- No
- Not sure

Section 2: Changes to reduce restrictions on service providers and increase the ease and transparency of application processes

The aim of this section is to test the changes we are proposing which will strengthen current obligations placed on competent authorities, with the aim of reducing burdens on service providers. Some of the proposals will allow us to better ensure compliance with international trade commitments and consistency across authorisation processes.

E) Expand what information competent authorities are required to supply service providers

Current provision: [Regulation 37](#) provides that a competent authority for a service must, on the request of a service provider (or recipient), provide information to them on the way in which requirements on service providers are generally interpreted and applied.

Proposal: We are proposing to expand the information relating to the authorisation process that should be provided to service providers, so that competent authorities have to provide:

- i) An update on the status of their application (when requested);
- ii) The timeframe of any appeal against a decision to refuse an application;
- iii) The procedures for resubmitting their application (where relevant and requested).

Rationale: Service providers will be able to obtain further information from competent authorities when applying for the authorisations they need. This will ensure the application process is more transparent and flexible for service providers. This would also ensure better compliance with international trade commitments.

(Questions for all):

14. To what extent do you agree with the proposals to expand the information that competent authorities need to provide to service providers?
- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why]

(Questions for competent authorities):

15. Do you currently provide any or all of the information above to service providers?
- Yes
 - a. [Which information?]
 - b. [Do you only provide this information on request?]
 - No
 - Not sure
16. Do you have a procedure in place for service providers resubmitting an application following the rejection of their application, which is different to the procedure for those submitting an application for the first time?

- Yes
- No
- Not sure

17. Are there any costs which you may incur or any potential benefits to you as a result of this change? Please provide any estimates of the time and cost requirements of having to provide this extra information.

F) Increased flexibility of the application process

Current provisions: The Regulations set out how competent authorities should run authorisation application processes for service providers, including, for example, a requirement at [regulation 19](#) to process applications within a reasonable, fixed, and published timeframe. There is also a requirement at [regulation 20](#) to inform applicants as soon as possible, where their application is incomplete, of the need to supply any additional documentation.

Proposal: We are proposing to:

- i) require competent authorities to accept and process applications all year round (where practicable);
- ii) require competent authorities to schedule exams at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the exam;
- iii) where an application is incomplete, require competent authorities to:
 - a. identify the additional information required to complete the application;
 - b. provide guidance to service providers to help them complete applications correctly (where practicable and requested); and
 - c. allow applicants to amend incomplete applications (where practicable).

Rationale: This will provide for more flexibility during the authorisation application process for service providers, and enable service providers to obtain the information they need to complete an application. This would also ensure better compliance with international trade commitments.

(Questions for competent authorities and service providers)

18. To what extent do you agree that the above proposed changes will make the authorisation process more flexible and easier to understand?

- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain your answer, including if you are a competent authority, if you would be able to provide guidance to service providers in writing (rather than just over the phone, for example)]

(Question for competent authorities)

19. Please set out whether you are currently doing what the following proposals suggest:

[Please tick the relevant box, and provide the additional information where requested]

Proposal	Currently do this	Do not currently do this, and, if applicable, reasons why it would not be practicable to do this
Accept and process applications all-year round (aside from outside official working hours and working days)		
Where exams are required, schedule exams at reasonably frequent time intervals and provide a reasonable period of time for applicants to request to take the exam before it occurs		
Allow the amendment of applications once submitted in cases where they are incomplete		
Provide guidance to applicants to assist them in a case of an incomplete application, on request		
Where an application is incomplete, identify the additional information required to complete the application for the applicant		

(Question for competent authorities and service providers)

20. Please provide any data and evidence on whether this policy is likely to increase/decrease the administrative burden for you as a competent authority or service provider (i.e., increases/decreases in time and cost requirements)

(Questions for service providers)

21. Approximately, how much time do you think would be saved (in hours) throughout the application process by being able to amend an application, as opposed to having to complete an application again, where the application is incomplete?

22. Approximately, how much time do you think would be saved (in hours) during the application process by having detailed guidance provided on the required documentation, in the case of an incomplete application?

G) Increased transparency of the application process

Current provisions: Regulations [15](#) and [20](#) require competent authorities to inform applicants where their application for authorisation has been rejected or refused and inform applicants of the reasons for this.

[Regulation 19](#) provides that, unless different arrangements apply (which must be justified by an ORRPI), in the event of failure to process an application for authorisation within the prescribed period, authorisation is deemed to have been granted by a competent authority (i.e., tacit authorisation). Regulation 20 requires competent authorities to acknowledge applications for authorisation and in this acknowledgement specify whether tacit authorisation applies.

Proposal: We propose to require competent authorities to:

- i) inform applicants of the outcome of an application in writing, except where tacit authorisation applies.
- ii) only where tacit authorisation does apply, state that this is the case when acknowledging an application (acknowledgements would not have to state that tacit authorisation does *not* apply, where this is the case).

Rationale: These proposals would make it clearer as to when an application has been accepted and should avoid confusion as to whether tacit authorisation applies, when the acknowledgement is silent on this. They should also better ensure compliance with international trade commitments.

(Questions for competent authorities and service providers)

23. To what extent do you agree with the proposal that, where tacit authorisation applies, competent authorities must state this in the acknowledgement of an application (and that the acknowledgement does not have to state that tacit authorisation does not apply)?

- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why]

(Questions for competent authorities)

24. Approximately, how many successful applications do you process each year?

25. Approximately, how many applications do you receive per year which are incomplete?

26. Do you currently inform applicants of the outcome of an application in writing, regardless of the outcome, except where tacit authorisation applies?

- Yes

- No
 - a. [Are there existing barriers to providing this information?]
 - Yes
 - b. [Please explain]
 - No
 - Not sure

27. How much time (annually, in hours) do you require to directly inform an applicant of the outcome of their application, or where an application is incomplete?

28. What information or assistance do service providers commonly request from you?

H) Widen and amend provisions governing how commercial communications are regulated

Current provisions: [Regulation 34](#) concerns the use of commercial communications (e.g., promotion of the service). It provides that:

- i) (at 34(1)) competent authorities may not impose a total prohibition on the use of commercial communications by providers of a service who are carrying on a regulated profession;
- ii) (at 34(2)) competent authorities should ensure that such providers comply with professional rules in relation to the independence, dignity, and integrity of that profession and professional secrecy; and
- iii) (at 34(3)) that rules made by a competent authority in relation to commercial communications by such providers must be justified by and proportionate to an ORRPI.

These provisions currently apply to competent authorities responsible for regulated professions, including those responsible for schemes that restrict the use of a professional title but not the provision of a service.

Proposal: We are proposing four changes to regulation 34:

- i) Expand the scope of regulation 34 so that *all* competent authorities cannot impose a total prohibition the use of commercial communications (as opposed to the requirement just applying to regulated professions) (*see proposal B concerning in scope competent authorities*). We are, however, considering providing that competent authorities could impose such a prohibition where it is appropriate and proportionate to achieve an ORRPI, e.g., for public security reasons (*see proposal C for more information on ORRPIs*).
- ii) Provide that only rules that restrict commercial communications must be appropriate to achieve, and proportionate to, an ORRPI.
- iii) Clarify regulation 34 to reflect case law⁶ that provides that competent authorities cannot impose a total prohibition on the use of a certain type of commercial communication.

⁶ Case C-119/09 *Société fiduciaire nationale d'expertise comptable v Ministre du Budget, des Comptes publics et de la Fonction publique* [2011]

- iv) Remove regulation 34(2) to no longer require that competent authorities ensure that providers of a service (who are carrying on a regulated profession) comply with professional rules.

To note, following our proposed changes to the scope of the Regulations (proposal B), competent authorities which oversee schemes which restrict the use of a professional title, but not the provision of a service, would also no longer be in scope of regulation 34.

Rationale: All four proposals should provide clarity for competent authorities when complying with regulation 34 and ensure that service providers have more avenues to advertise their services. Further, it is considered to be unsuitable for rules that do not restrict commercial communications to have to be appropriate to achieve, and proportionate to, an ORRPI and unnecessary to require competent authorities to ensure that service providers comply with professional rules, as they should doing this anyway.

(Questions for all):

- 29. To what extent do you agree with the proposed changes to regulation 34?
 - Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
 - a. [Please explain why]

(Questions for competent authorities):

- 30. Do you prohibit service providers' use of (certain types of) commercial communications?
 - Yes
 - a. [Please explain why this is appropriate, including whether you consider your prohibition appropriate and proportionate to achieve an ORRPI and, if so, which ORRPI]
 - No
 - Not Sure

(Questions for service providers)

- 31. Have you ever been prohibited from using commercial communications?
 - Yes
 - a. [Please explain]
 - No
 - Not Sure
- 32. Are there any costs you may incur or potential benefits to you as a result of reforming the commercial communications provisions? Please provide any further data or evidence to support a detailed assessment of this impact.

I) Clarify when authorisation fees can include the management and enforcement costs of an authorisation scheme

Current provision: [Regulation 18\(4\)](#) provides that any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate and must not exceed the cost of the procedures and formalities under the scheme.

Proposal: We are proposing to clarify regulation 18(4) to reflect case law. The case law established that competent authorities cannot require applicants for authorisation to pay a fee at the time of submitting an application for the grant or renewal of authorisation, where (part of) that fee corresponds to costs relating to the management and enforcement of the authorisation scheme concerned. This is the case even where the element of the fee covering those costs would be refunded if the application is unsuccessful.⁷

We are also considering clarifying that competent authorities are not prevented by the regulation from charging for the costs of management and enforcement of an authorisation scheme up-front, if the applicant is given a choice between paying a fee for these up front (which would then be refunded if the application is unsuccessful) and paying these once an application has been approved.

Rationale: By changing the regulation to reflect the case law, it would clarify the circumstances in which management and enforcement costs can be reclaimed and ensure that up-front costs for applications are reduced.

However, we want to seek views on how the case law is affecting authorisation schemes in practice. In particular, we understand that the case law may mean that some competent authorities have to charge two fees: one fee at the time of application; and then a further fee once an application has been approved, covering the costs of management and, where applicable, enforcement of the authorisation scheme. We understand that the costs of having this two-stage charging process could be higher and that these costs may be passed on to service providers. We are therefore considering clarifying that competent authorities are not prevented by the regulation from charging for the costs of management and enforcement of an authorisation scheme up-front, where an applicant is given a choice between paying for these up-front or once an application has been approved.

(Questions for all)

33. To what extent do you agree with the proposals to clarify regulation 18(4)?

- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why]

(Questions for competent authorities)

34. Do you charge service providers for the costs of management and/or enforcement of an authorisation scheme?

- Yes

⁷ *R (on the application of Hemming and Others) v Westminster City Council* [2017] UKSC 50

- a. [Explain how, and whether you charge both or one of management and enforcement costs]
 - No
 - Not sure

- 35. Do you charge fees in two stages, i.e., one fee at the point of the submission of the application, and then further fee covering the costs of management and / or enforcement?
 - Yes
 - a. [Explain at what stage you charge the further fee, whether the charges incurred by applicants would be overall higher for this two-stage approach compared to if you could charge fees at one stage, and your rationale for this approach]
 - No
 - Not sure

- 36. Would you want to be able to charge applicants for the costs of management and enforcement of an authorisation scheme up front?
 - Yes
 - No
 - Not sure

(Questions for service providers):

- 37. Which option would you prefer out of the following, if the costs you have to incur overall are the same:
 - a. Paying one fee at the point of submission of an application for authorisation and then a further fee covering the costs of management and enforcement once the application has been approved.
 - b. Paying one fee at the point of submission of an application for authorisation that includes the costs of management and enforcement, the costs of which are refundable if the application for authorisation is not successful.
 - Option (a)
 - a. [Please explain why]
 - Option (b)
 - a. [Please explain why]
 - I would be happy with either option
 - I would dislike both options

J) Remove exclusions under regulation 31, relating to the documentation that competent authorities can request from service providers

Current provisions: [Regulation 31](#) provides that, where a competent authority requires a document (e.g., evidence of formal qualifications) to be provided to prove that a requirement has been met, they must accept any documents which serve an equivalent purpose (e.g., a

similar document) to the documentation requested, or documents from which it is clear that the requirement has been satisfied. It also provides that competent authorities may not require service providers to produce a document in its original form, or as a certified copy or certified translation, except where this is justified by an ORRPI, or where this is provided for in other REUL. Competent authorities are however exempt from these requirements where requesting certain documentation specified in other legislation.

Proposal: We are considering proposing two changes to the exceptions to regulation 31 so that:

- i) Competent authorities do not have to accept any documents which serve an equivalent purpose to the documentation requested, or from which it is clear that the requirement has been satisfied, where not doing so is appropriate to achieve an ORPPI (*see proposal C above for more information on ORRPPIs*)
- ii) Competent authorities can only require documents to be provided in their original form, or as a certified copy or certified translation, where appropriate to achieve an ORRPI.

Rationale: These two proposed changes to regulation 31 would simplify the existing provisions. Further, we consider it suitable for competent authorities' actions to have to be appropriate to achieve an ORRPI and that it is no longer appropriate for priority to be given to other REUL.

(Questions for all)

38. To what extent do you agree with the proposals to change the exceptions under regulation 31?

- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain:
- (i) whether you request documents in original form, as a certified copy or as a certified translation and, if so, which documents and why
 - (ii) whether you do not accept documents which serve an equivalent purpose to the documentation requested or from which it is clear that the requirement has been satisfied and, if so, in what circumstances and why
 - iii) whether you think your actions above are appropriate to achieve an ORRPI (and, if so, which ORRPI)
 - (iv) Any other reasons for disagreeing with the proposals]

k) Requiring information to be provided to the Government directly and making the list of information to be provided more comprehensive

Current provisions: [Regulation 36](#) currently provides that certain information, such as the requirements applicable to service providers and contact details of competent authorities, must be made available to the Secretary of State, i.e., DBT, by competent authorities. This information is to be used by the Government to include on its electronic assistance facility, Find a Licence, on GOV.UK.

Regulation 36 requires that competent authorities must provide the information, or simply ensure that it is accessible in electronic form, to the Secretary of State. Accordingly, competent authorities could meet this requirement by ensuring it is on their website; however, the Secretary of State would not have to be alerted to the fact that the information is there.

Proposal: We are proposing two changes to regulation 36:

- i) To require that competent authorities have to provide the specified information directly to the Secretary of State in electronic form, i.e., by email, to ensure that the DBT Secretary of State receives the information and can therefore include it on Find a Licence.
- ii) To amend the list of information that competent authorities must provide to the Secretary of State under regulation 36 (see below for the specific additions and removals).

As per ii), we are proposing to request that competent authorities provide the Secretary of State, i.e., DBT, with the following additional information:

- A link to the relevant webpage where authorisations can be applied for;
- How long the authorisation is valid for (including if it is indefinite) and, where applicable, specific dates for renewal;
- Information on authorisation fees;
- The fixed timeframes for processing applications for authorisation;
- Information on what fines and penalties can be incurred if the relevant authorisation is not held, including whether operating without a licence would constitute a criminal offence;
- Information on the procedures for monitoring or enforcing compliance with the conditions of the authorisation;
- Information on whether there are opportunities for the public to be involved in the authorisation process, for example through hearings or consultations;
- The ORRPI(s) that the competent authority relies on to take action under the Regulations, and why the measures taken are considered to be appropriate to achieve that ORRPI and, where applicable, proportionate to that ORRPI (*this information would not be uploaded to Find a Licence*).

Following this change, regulation 38 would also be amended to reflect that the Secretary of State is required to publish the above information on the electronic assistance facility (except for the information on ORRPIs).

We are also proposing to remove the requirements for competent authorities to provide the Secretary of State with the following information:

- Information on dispute resolution between providers and recipients or other providers;
- Information on public databases of "the service" (but provisions requiring information on public registers of service providers will be kept);
- The contact details of associations or organisations, other than the competent authority, from which providers or recipients of the service may obtain practical assistance;
- General information on the requirements applicable in the UK relating to access to, and the exercise of, a service activity, in particular those relating to consumer protection.

Rationale: Most of this information will be uploaded to Find a Licence to improve service providers' access to information about relevant authorisations. Having competent authorities directly provide this information to DBT provides a mechanism to ensure the tool stays up to date and therefore remains comprehensive and useful for service providers. This will also better ensure compliance with international trade commitments. The additional information requested from competent authorities that would not be uploaded to Find a Licence would support DBT's potential Monitoring and Compliance mechanism (proposal M).

The additional requested information broadly aligns with current practice. Competent authorities have been providing DBT with the majority of the suggested additional information as well as the information currently required as part of DBT's 'Find a Licence refresh' exercise. Previous stakeholder engagement has suggested that competent authorities have readily available the additional information that they would be required to provide to the Secretary of State.

We are also removing some of the information that is currently requested under regulation 36 because what is requested is unclear; we do not think it is appropriate for competent authorities to have to provide it; or it appears unnecessary to provide on Find a Licence, for example, as the information does not improve the ease of applying for authorisations. For instance, competent authorities are unlikely to be best placed to provide information on dispute resolution between providers and recipients, or other providers, as these procedures are likely to be broadly applicable and would not usually concern the competent authority.

(Questions for all):

39. To what extent do you agree with the proposal to require competent authorities to actively provide information to DBT, including the additional information above, but no longer require other pieces of information currently required?
- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why, including any costs which may be incurred (e.g., extra time required) or estimates of increased administrative burden].

(Questions for competent authorities)

40. Do you have specific renewal dates for your authorisation scheme, for example a date each year by which all service providers must renew their authorisations?
41. Are there public databases on the service activity relevant to you, beyond registers of providers of the service?

(Questions for competent authorities and service providers)

42. Beyond the proposals set out in this document, how, if at all, do you think authorisation application processes could be improved?

Section 3: Removing administrative requirements placed on service providers

The aim of this section is to test proposals that ensure the content of the Regulations is more appropriately focused on requirements on competent authorities and the Government, rather than service providers, and thereby streamline requirements on service providers.

L) Remove administrative requirements placed on service providers (Part 2)

Current provisions: [Part 2](#) is the main section of the Regulations that sets out duties on service providers to provide certain information to service recipients. Part 2 requires service providers to:

- i) make contact details (such as postal address and telephone number) and other information (such as their VAT number, the price of the service, terms and conditions, details of their regulator, details of any professional liability insurance, the main features of the service and information about dispute resolution) available to service recipients; and
- ii) respond to complaints from service recipients as quickly as possible and make their best efforts to find a satisfactory solution to these.

Proposal: We are proposing to remove Part 2 of the Regulations (regulations 7-12). This would mean that service providers are no longer required to provide the specified information to service recipients or respond to complaints from service recipients under the Regulations.

Rationale: Removal of Part 2 would reduce duplication with existing legislative requirements requiring service providers to provide information to recipients, such as the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Removing Part 2 would therefore help clarify and further endorse the main purpose of the Regulations to all stakeholders: to reduce administrative burdens on service providers by creating justified, proportionate, and transparent authorisation processes.

However, we are seeking to find out whether all the requirements in Part 2 (e.g., the requirement to respond to complaints from service recipients as quickly as possible) exist in other legislation. It is not our intention to reduce consumer protections, but to streamline requirements on service providers, removing unnecessary provisions where possible.

(Questions for service providers)

43. If these obligations in Part 2 are removed, would you continue to make the information required to be provided in that part available to service recipients?

- Yes
 - a. [Please explain why, including, where applicable, any other legislation or rules requiring you to provide this that you are aware of]
- No
 - a. [Please explain why, and what information you would no longer provide e.g., contact details, your legal status, the price of a service, and, if applicable, how

much time you would save annually by no longer providing this information]

- Not Sure

44. If Part 2 of the Regulations is removed, would you make any changes to your process of responding to complaints and finding a satisfactory solution to complaints? (Chapter 2 of Part 2)

- Yes
 - a. [Please explain why and what you would do differently, including whether saving time would be a factor in your decision]
- No
 - a. [Please explain why, including, where applicable, any other legislation or rules requiring you to respond to complaints from recipients of the service as quickly as possible and/or make your best efforts to find a satisfactory solution to these that you are aware of]
- Not Sure

(Questions for service recipients)

45. To what extent do you agree that these obligations on service providers should be removed?

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree
 - a. [Please explain why, including if you anticipate any risks to the protection of you as a service recipient following the removal of Part 2 of the Regulations]

Section 4: Establish a system for monitoring compliance with the Regulations

The aim of this section is to gather information to inform the development of a future monitoring and compliance process.

M) Providing a new Monitoring and Compliance mechanism that allows competent authorities and service providers to raise a complaint regarding alleged non-compliance by a competent authority under the Regulations directly with the Government

Current provisions: The Regulations currently require competent authorities to provide certain information to the Secretary of State, i.e., DBT, but DBT does not otherwise have a formal system in place to monitor competent authorities' compliance with the Regulations.

Proposal: We are seeking to provide a mechanism for HMG to monitor and respond to, where appropriate, complaints that concern a competent authority not fulfilling its obligations under the Regulations. We would ensure that any monitoring and compliance regime we develop is light touch and would want to work closely with other government departments and the devolved administrations, where they hold the relationship with the service provider or competent authority.

Rationale: The aims of any system would be to improve oversight of the regulatory environment and help ensure competent authorities are able to comply with the reformed Regulations and administer their schemes effectively. It would also provide an opportunity for DBT to work with other government departments and the devolved administrations to explore options to intervene, where it is considered appropriate and proportionate.

(Questions for all)

46. To what extent do you agree with there being a system for raising complaints concerning a competent authority not fulfilling its obligations under the Regulations directly with the Government?
- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why]

(Questions for competent authorities)

47. What procedures do you have in place to deal with complaints by service providers regarding your obligations under the Regulations? [Please explain how you receive complaints e.g., email, automated form, a mechanism within the application process, etc.]
48. Other than raising a complaint directly with you, or taking action in the courts, are there any other ways that service providers can or have raised complaints regarding the fulfilment of your obligations under the Regulations (e.g., to a national regulator and / or the Government)?
- Yes
- a. [Please explain why]
- No
 - Not sure

Section 5: Clarificatory changes and changes to remove references to EU provisions

The aim of this section is to inform respondents that we are proposing clarificatory changes to the Regulations and seek views on these.

N) Amending language to clarify the Regulations and make them more appropriate following EU Exit

Current provisions: There are various provisions in the Regulations which are unclear or contain references to EU Treaties or Directives.

Proposal: The changes we are considering include:

- i) Amending confusing language, for example clarifying the requirement at [regulation 32](#) for competent authorities to ensure that all procedures relating to the supply of a service can be completed electronically.
- ii) Removal of references to EU Treaties and Directives throughout the Regulations.
For example:
 - rewording the “official authority” exclusion to instead reference “*public functions*”; and
 - redefining “service” as “*any self-employed economic activity normally provided for remuneration but does not include such activity that predominantly leads to the production of goods*” or similar, to reflect case law.

Removing references to recipients in respect of authorisations in the definition of “authorisation”, regulation 31, and regulation 36., given our understanding that there are no schemes restricting receipt of a service which these would be relevant for.

Rationale: These changes would make the legislation clearer for competent authorities and service providers to comply with, and more appropriate for the UK post-EU Exit.

(Questions for all)

49. To what extent do you agree with the proposed changes?
- Strongly Agree
 - Agree
 - Neither Agree nor Disagree
 - Disagree
 - Strongly Disagree
- a. [Please explain why]

Final comments

(Questions for all)

50. Please provide any other information which you believe may be useful in the context of this consultation.

Next steps

Once the consultation closes, we will consider all responses before publishing the Government Response, where possible, within 12 weeks of the close of the consultation at www.gov.uk/government/consultations/XXX. Comments made in response to this consultation will be considered by DBT and inform our final policy proposals.

This consultation is being conducted in line with the “Consultation Principles” as set out in the Better Regulation Executive guidance which can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>.

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