



Department for  
Business & Trade

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# Provision of Service Regulations (PoSRs) Consultation

Government response

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## Introduction

On 13 September 2023, the government launched an 8-week [consultation](#) exercise on proposed reforms to the [Provision of Services Regulations 2009](#) (“the 2009 Regulations”).

The 2009 Regulations set out rules relating to the provision and supervision of services in the UK. They contain obligations on competent authorities (local authorities and regulators) and service providers, which have the effect of protecting UK businesses and consumers. They ensure that competent authorities’ regulation of service activity through authorisation schemes (concerning the grant of licenses required before providing a service) is proportionate, justified in the public interest and conducted in a fair, accessible and transparent way. They also require service providers to be transparent with consumers regarding their service provision.<sup>1</sup>

The 2009 Regulations transposed the 2006 EU Services Directive into UK law. Following the UK’s exit from the EU, the 2009 Regulations became Retained EU Law (“REUL”) and continued to apply to UK-established competent authorities, service providers and service recipients, in relation to services provided in the UK.

The Retained EU Law (Revocation and Reform) Act 2023 (“the 2023 Act”) allows the government to restate, revoke and where necessary replace REUL. The Department for Business and Trade’s<sup>2</sup> (“DBT”) proposed reforms entail amending the 2009 Regulations using the 2023 Act to ensure they better reflect the needs of UK businesses and align more closely with services domestic regulation commitments in the UK’s Free Trade Agreements.

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<sup>1</sup> Department for Business and Trade, UK [Guidance on the Provision of Services Regulations for Competent Authorities and businesses](#), GOV.UK

<sup>2</sup> Formerly this work was carried out by the Department for Business, Energy and Industrial Strategy (BEIS) before machinery of government changes in February 2023.

## Conducting the consultation exercise

The consultation was published by the UK government on the GOV.UK website and ran for 8 weeks from 13 September until 13 November 2023 (“the consultation period”). The consultation sought views from different UK stakeholders including competent authorities, service providers, and service recipients.

During the consultation period, DBT officials ran a series of workshops for stakeholders to support their understanding of the proposed reforms, their potential impact, and to answer any questions. The workshops were divided and tailored to different stakeholder groups, including by geographical location. For example, some workshops focused specifically on reforms affecting competent authorities and some on service providers. These were further differentiated for those based in Scotland, Wales and Northern Ireland. Officials from the devolved governments also attended these workshops.

DBT received 9 responses to the online consultation and 5 additional written letters. The responses received are comprised of the following:

- 7 from competent authorities
- 1 from a service provider
- 4 from central government departments
- 1 from a local authority
- 1 from a business representative organisation

We would like to thank all who engaged with the consultation exercise.

Most respondents did not provide their consent to publish their responses or share their identities, so all the responses have been anonymised. A list of respondents who consented to being named can be found at Annex 1.

Additional stakeholder engagement has taken place to collect a broader range of perspectives to support policy development. This included the commissioning of a report published in February 2023, in which Nous Group evaluated the 2009 Regulations to establish whether they remained fit for purpose and to identify areas for improvement.<sup>3</sup> Nous surveyed 46 competent authorities and 128 service providers. There were also 9 competent authorities who took part in longer, direct interviews on the proposed policy changes and 17 local authorities and 2 national regulators who responded to a questionnaire about their current processes.

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<sup>3</sup> Department for Business and Trade, [Evaluation of the Provision of Services Regulations 2009](#), GOV.UK

As there was only a limited response to the consultation, it was acknowledged that its findings may not be representative of the wider stakeholder population. Therefore, DBT subsequently engaged more directly with stakeholders, which further informed the decisions regarding the reforms.

# Online survey: summary of responses and issues raised

## Section 1: revise the scope of the 2009 Regulations' obligations

This section outlines the proposed reforms which were designed to enhance the effectiveness of the 2009 Regulations, ensuring they remain relevant and proportionate in their application. They aim to reduce regulatory burdens for service providers, establish a more transparent framework, and broaden the scope of the 2009 Regulations to include, for example, foreign service providers without a UK establishment, who provide services in the UK. This reflects the practical reality that, in most cases, competent authorities treat all providers similarly. Furthermore, the changes will support implementation of the UK's international trade commitments.

### Extending the 2009 Regulations to foreign service providers

The 2009 Regulations currently apply to service providers who are UK nationals, or business undertakings established in the UK (as set out in regulation 5(4)). The consultation sought views on expanding the scope of the 2009 Regulations so that they apply to services providers established outside of the UK who provide services in the UK.

We received 9 responses to this proposal. Of the 9 respondents, 4 respondents agreed or strongly agreed, 2 respondents disagreed, and 3 respondents neither agreed nor disagreed.<sup>4</sup>

Most (5 out of 7) competent authority respondents reported that they did not currently apply a substantively different regime to non-UK nationals (or those not established in the UK) compared with that for UK nationals.<sup>5</sup>

However, in their comments, 3 respondents provided examples of licensing schemes which set out in legislation a requirement for the applicant to have an address registered in the UK. Two competent authorities disagreed with broadening the scope of the 2009 Regulations and applying them to foreign service providers, citing concerns with enforcement and monitoring, including difficulties applying sanctions against non-compliant service providers in other countries.

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<sup>4</sup> Refers to consultation question 1

<sup>5</sup> Refers to consultation question 2

Taking these responses into consideration, as well as feedback from several government departments, the government has decided to expand the scope of the 2009 Regulations to encompass service providers based outside of the UK. This also reflects and ensures implementation of the commitments made to our trade partners in services' domestic regulation. However, this does not prevent competent authorities from relying on overriding reasons relating to the public interest ("ORRPIs"), to require foreign service providers to have a UK address, where this is considered appropriate.

This ensures necessary protections for both businesses and consumers are maintained. This approach seeks to balance the benefits of greater market access with the need for robust consumer protection and operational certainty.

### **Narrowing the scope to only mandatory regulatory functions**

The consultation sought views on narrowing the scope of the 2009 Regulations to those competent authorities that have regulatory functions in relation to mandatory requirements, as opposed to schemes which have a more supervisory function.<sup>6</sup> Of the 9 respondents, 4 respondents agreed, and 5 respondents neither agreed nor disagreed with this proposal. Respondents stated that the proposed change in scope was proportionate, or that it would have no bearing on how they operate. There were no concerns raised in this consultation from the service provider that responded in relation to limiting the scope to mandatory requirements only.

The government has opted not to narrow the 2009 Regulations solely to those competent authorities with regulatory functions linked to mandatory requirements. This decision reflects the valuable role that supervisory schemes play in supporting high standards and accountability across the sector, and the need to ensure that such schemes do not place disproportionate or unjustified requirements on businesses.

### **Defining and limiting ORRPIs: restricting competent authorities' grounds for regulatory derogations**

The consultation sought views on reforming ORRPIs, which allow competent authorities to derogate from parts of the 2009 Regulations. While the 2009 Regulations refer to ORRPIs, they do not define what the reasons are. Therefore, to limit the number of circumstances in

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<sup>6</sup> Refers to consultation question 3. The consultation also asked service providers to provide any data or evidence concerning whether this change is likely to increase the administrative burden for them (Question 4). However, there were no responses to this question.

which competent authorities could impose restrictions and depart from requirements in the 2009 Regulations, the consultation proposed to expressly limit the ORRPIs to 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

While most (8 out of 9) respondents agreed or strongly agreed with reforming the ORRPI test, to require competent authorities to ensure that measures are appropriate to achieve an ORRPI,<sup>7</sup> views were more mixed on limiting the ORRPIs to the 5 reasons listed.<sup>8</sup> Out of the 9 respondents, 5 respondents agreed or strongly agreed with limiting the ORRPIs to these reasons, 2 neither agreed nor disagreed, and 2 disagreed.

The consultation asked for views on which ORRPIs should remain, if the available reasons were reduced.<sup>9</sup> Reasons put forward by respondents, other than the 5 proposed, included independence of accounting services, protection of creditors, maintaining the good reputation of the financial sector, and fraud and economic crime risk.

The consultation also asked for views on the extent to which respondents agreed with reducing the ORRPIs applicable to some, but not all, regulations (for example, regulation 15(5D)).<sup>10</sup> Responses were mixed, with 5 respondents agreeing and 4 neither agreeing nor disagreeing.

Competent authorities were asked if they were aware of which ORRPIs they relied on under regulation 14 and 15(2).<sup>11</sup> Of the 7 competent authorities who responded, 5 indicated that they were aware. Three respondents cited that public safety, health or security were relied upon for both regulation 14 and 15(2) and one respondent cited consumer protection, maintaining the independence of the service and maintaining the service reputation were the ORRPIs applied to each regulation, apart from regulation 21 and 17.

When competent authorities were asked if they rely on an ORRPI under regulation 15(5D), regulation 16, regulation 17, regulation 19, regulation 21, regulation 22, regulation 31 and regulation 34, seven responded. Six stated that they were aware that they relied on an ORRPI under those regulations. Four stated that they relied on one or more of the ORRPIs under the aforementioned regulations, and 2 stated that they did not rely on any. Of those

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<sup>7</sup> Refers to consultation question 5

<sup>8</sup> Refers to consultation question 6

<sup>9</sup> Refers to consultation question 7

<sup>10</sup> Refers to consultation question 8

<sup>11</sup> Refers to consultation question 9

that responded however, the majority did not rely on all of the regulations, instead only relying on one or just a few. This reflects the optional use of the ORRPIs within these regulations. One stated that they did not know if they relied on any of the ORRPIs under those regulations.

Competent authorities were asked whether it would affect the way they regulate services, if the list of ORRPIs were limited to the 5 reasons outlined.<sup>12</sup> All 7 respondents stated that it would not.

However, this policy presents wider risks to government stakeholders, including government departments and arm's length bodies, as well as to the devolved governments. This is because the policy could result in the restriction of the right of regulators to regulate or create authorisation schemes.

The government has therefore, concluded that it will not make substantive changes to the list of ORRPIs in legislation. However, we propose to promote clarity on the public interest reasons in guidance. Further, where a competent authority does not apply tacit authorisation to an authorisation scheme, it will be required to publish the public interest reason for its decision. This will promote transparency without altering the underlying principles.

## **Considerations regarding the removal of regulations prioritising other legislation**

Questions 12 and 13 of the consultation considered the removal of provisions which address the relationship between the 2009 Regulations and other legislative and regulatory frameworks. The provisions include limited prioritisation rules, intended to address potential conflicts between requirements and provisions which clarify the scope of the 2009 Regulations in order to avoid regulatory overlap. This includes references to EU-derived legislation.

The proposal sought to assess whether these provisions remained necessary and whether their removal would improve clarity as to how and when the 2009 Regulations apply. Three respondents stated that they were aware of legislation which they considered conflicted with the 2009 Regulations and would continue to conflict if regulations 5(1) to (2A), and/or 22(2)(d) were removed.

Further analysis by DBT indicated that these provisions continue to perform a useful function in practice. In particular, they assist with interpretation of the 2009 Regulations where EU-derived law continues to apply as retained (assimilated) law, and they help manage interactions with other regulatory regimes, preventing conflict or duplication. While a small

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<sup>12</sup> Refers to consultation question 11

number of respondents suggested that removing them could give rise to conflicts with sector-specific regimes, no unresolved conflicts were identified that required legislative amendment.

Taking this into consideration, and following the 2024 General Election, ministers agreed to focus on reforms that would deliver clear and tangible benefits to businesses, including reducing administrative burdens, the government decided not to pursue changes to these provisions.

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

Part 3 of the 2009 Regulations focuses on competent authorities' duties when overseeing authorisation schemes and service providers in the UK. The questions in this section sought to test proposed changes that would strengthen the obligations placed on competent authorities to reduce burdens on service providers.

### **Expand what information competent authorities are required to provide to service providers**

The consultation gathered views on proposals to require competent authorities to provide applicants with:

- an update on the status of their application (when requested)
- the timeframe of any appeal against a decision to refuse an application
- the procedures for resubmitting their application (where relevant and requested)

Six respondents agreed or strongly agreed with the proposal to expand the information that competent authorities need to provide. One respondent disagreed, and 2 respondents neither agreed nor disagreed. The respondent who disagreed mentioned that there would be resource burdens placed on a competent authority in dealing with additional applicant enquiries. They suggested that the amendments could be redrafted to allow for an update on the status of their application when this is outside of published response timeframes.<sup>13</sup>

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<sup>13</sup> Refers to consultation question 14

All 7 of the competent authorities that responded reported that they already provided the information listed. However, 2 said they only provide this information on request.<sup>14</sup> Another stated that the majority of this information is provided without request, but a status update on an application would generally only be provided on request unless something had changed.

The government will proceed with the requirement to update applicants on the status of their application. This decision was made to bring legislation in line with the UK's commitments to its international trading partners in the Domestic Regulation chapters of Free Trade Agreements. These commitments state competent authorities must at the request of the applicant provide without undue delay information concerning the status of the application.<sup>15</sup>

### **Procedures for resubmission of applications and associated costs**

Competent authorities were asked whether they have a procedure in place for service providers to resubmit an application after it has been rejected, which is different from the procedure for those submitting the application for the first time.<sup>16</sup> Most (6 out of 7) respondents stated that they did not have a different procedure, whereas one respondent stated that it was dependent on the reason the application was rejected.

Competent authorities were also asked if there would be any additional costs, or potential benefits, associated with the additional requirements.<sup>17</sup> Five responded to this question. One respondent noted that additional resource may be needed to respond to additional queries, and another noted that there may be additional time required to build up awareness of this with service providers, but this is not expected to be significant. The 3 remaining competent authorities did not anticipate further costs or potential benefits associated with the additional requirements.

After considering feedback and conducting further stakeholder engagement with competent authorities and businesses, the government will require competent authorities to provide procedures for resubmitting applications, where practicable. The government will also prohibit competent authorities from preventing further applications from a service provider solely based on a previous rejection.

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<sup>14</sup> Refers to consultation question 15

<sup>15</sup> EU-UK Trade and Cooperation Agreement (TCA) - Article 150, Processing of applications

<sup>16</sup> Refers to consultation question 16

<sup>17</sup> Refers to consultation question 17

## **Communicating application outcomes and clarifying tacit authorisation**

The 2009 Regulations require competent authorities to inform applicants of the outcome of their application and, where an application is rejected, of the need to supply further information. The proposed reforms will require competent authorities to inform applicants of the outcome of an application in writing, such as either by post or via email, unless tacit authorisation applies. If tacit authorisation applies, this should be made known when acknowledging an application.

In the case of an incomplete application, it was proposed that competent authorities should be required to:

- identify the additional information required to complete the application
- provide guidance to service providers to help them complete applications correctly (where practicable and requested)
- allow applicants to amend incomplete applications (where practicable)

Further, to increase flexibility in, and understanding of, the authorisation process it was proposed to require competent authorities to:

- accept and process applications all year round (where reasonably practicable)
- schedule exams at reasonably frequent intervals
- provide a reasonable period to enable applicants to request to take the exam (where reasonably practicable)

Competent authorities and service providers were asked to what extent they agreed that the proposed changes will make the authorisation process more flexible and easier to understand.<sup>18</sup> One respondent, a business or individual providing services, strongly agreed with the proposal. Of the remaining respondents, 4 agreed, 3 neither agreed nor disagreed, and no respondents disagreed.

Competent authorities were asked whether they currently have procedures in place which meet the requirements set out in the proposals.<sup>19</sup> The responses indicate that some competent authorities already meet all the requirements set out in the proposals, with most of the 7 competent authorities that responded indicating that they already meet all the proposed requirements:

- all 7 respondents to this question currently accept and process applications all-year round (aside from outside official working hours and working days)

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<sup>18</sup> Refers to consultation question 18

<sup>19</sup> Refers to consultation question 19

- where exams are required, 3 out of 7 respondents currently 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. The respondents that do not currently do this told us that this is because they do not run exams
- all 7 currently allow the amendment of applications once submitted in cases where they are incomplete
- all 7 currently provide guidance to applicants to assist them in a case of an incomplete application, on request
- where an application is incomplete, all 7 currently identify the additional information required to complete the application for the applicant

Competent authorities and service providers were asked whether there would be an additional administrative burden in response to these proposals.<sup>20</sup> Most (5) respondents said there would be no impact, however, one respondent raised a concern that the policies proposed would increase administrative burden and cost if competent authorities had to take on the responsibility for exam scheduling, but they were unable to estimate what the exact cost would be.

Service providers were asked how much time could be saved if applicants had access to detailed guidance on the application process and were able to amend, rather than resubmit, their applications.<sup>21</sup> There were no responses to these questions.

Wider stakeholder engagement conducted throughout the policy development process also showed that accepting applications all year round, frequently scheduled examinations, and assistance with incomplete applications are common practice in most competent authorities.

Taking this and the feedback received during the consultation period into consideration, the government has decided to proceed with the set of reforms aimed at improving the application process for service providers. Specifically, where an application is incomplete, competent authorities must identify the additional information necessary to complete the application and permit applicants to amend their submissions where practicable. However, the proposal to require competent authorities to provide further guidance to help applicants complete applications correctly, when requested, will not be taken forward. Specifying the missing information is considered to provide adequate support for applicants.

Further, competent authorities will be required to accept and process applications throughout the year, where practicable, ensuring continuous access for applicants. They will

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<sup>20</sup> Refers to consultation question 20

<sup>21</sup> Refers to consultation questions 21 and 22

also need to schedule examinations at reasonably frequent intervals and allow a sufficient window for applicants to request to sit the exam.

Competent authorities and service providers were asked to what extent they agreed with the proposal to require competent authorities to state if tacit authorisation applies to the acknowledgement of an application.<sup>22</sup> Responses to this question were mixed. Five respondents neither agreed nor disagreed with this proposal. Two respondents were positive, one agreeing and one strongly agreeing. When asked to explain their answer, both mentioned that it would help clarify the application process for the applicant. One respondent disagreed with this proposal, stating there is no tacit authorisation given in their authorisation scheme, as applicants are prevented from providing services unless registered.

Competent authorities were asked how many successful applications they process and how many applications they process each year which are incomplete.<sup>23</sup> Most responses to this question only provided data on how many applications they received and did not address how many were incomplete.

Competent authorities were asked if they informed applicants of the outcome of an application in writing, regardless of the outcome, except where tacit authorisation applies.<sup>24</sup> All 7 responses to this question were 'yes'.

When asked how much time competent authorities require (annually, in hours) to directly inform applicants of the outcome or where an application is incomplete, most (4 out of 7) respondents were unable to give an approximate figure as they did not hold this data.<sup>25</sup> Three respondents provided estimates, with substantial variation in the number of hours quoted. The amount of time competent authorities require annually will depend on the size of a local authority and total number of applications they process per year. There are also multiple complex factors which can affect individual applications.

Competent authorities were also asked what information or assistance service providers commonly request.<sup>26</sup> Responses to this question included:

- specific information on the application process
- guidance on how to complete the application
- how long the process takes
- how an applicant could appeal a decision

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<sup>22</sup> Refers to consultation question 23

<sup>23</sup> Refers to consultation questions 24 and 25

<sup>24</sup> Refers to consultation question 26

<sup>25</sup> Refers to consultation question 27

<sup>26</sup> Refers to consultation question 28

One respondent mentioned that they received queries on more complex issues, such as carrying authorisations over from one organisation to the next, or whether shareholder changes will affect eligibility.

The government will move forward with requiring competent authorities to provide applicants with written confirmation of application outcomes promptly. All 7 responses to the consultation indicated that this requirement already exists in practice and this is consistent with answers received from wider engagement with competent authorities. However, there will be a slight amendment to the proposed reform on tacit authorisation, in that authorities will be required to publish information on when it applies and explain any public interest reasons relied upon to disapply it. This information only needs to be posted once, which will reduce the burden on competent authorities and ensure applicants have access to this information before submitting their application.

## **Commercial communications**

Questions within the consultation focused on the proposals to widen and amend provisions governing how commercial communications are regulated, which is largely covered in regulation 34 of the 2009 Regulations. There were 4 changes proposed:

- expand the scope of regulation 34, so that all competent authorities cannot impose a total prohibition on the use of commercial communications (as opposed to the requirement just applying to regulated professions). The consultation noted the government was considering providing that competent authorities could impose such a prohibition where it is appropriate and proportionate to achieve an ORRPI, for example for public security reasons
- provide that only rules that restrict commercial communications must be appropriate to achieve, and proportionate to, an ORRPI
- clarify regulation 34 to reflect case law that provides that competent authorities cannot impose a total prohibition on the use of a certain type of commercial communication
- remove regulation 34(2) to no longer require that competent authorities ensure that providers of a service (who are carrying out a regulated profession) comply with professional rules

These changes are intended to provide clarity to competent authorities to comply with regulation 34 and to ensure service providers are not restricted when advertising services.

All respondents were asked to what extent they agreed with this proposal in Question 29. Five respondents agreed or strongly agreed with this proposal, with the remaining 4 neither agreeing nor disagreeing. When asked to explain their answer, the majority noted that this would make no change to the way that they operate. One service provider noted that the changes would allow them to use a variety of communication methods, and 2 competent authorities did advise that there are advertising standards that apply to their licensing scheme.

Competent authorities were asked if they prohibited service providers' use of (certain types of) commercial communication.<sup>27</sup> Of the 7 responses, most (6) confirmed they impose no prohibitions. One respondent responded positively, stating that they prevent individuals from claiming to be licensed for the regulated activity when they are not licensed, to protect consumers and the reputation of the licensed activity.

Service providers were asked whether they had ever been prohibited from using commercial communications.<sup>28</sup> There was only one response which confirmed that they had not been prohibited from using commercial communications. The respondent did not comment further on this question.

There were no responses to Question 32, which asked service providers whether they could identify any costs or benefits that may arise from reforming this regulation.

The majority of respondents indicated that amending the provisions relating to the regulation of commercial communications, primarily set out in Regulation 34, would not result in any practical changes to current operations. Therefore, the government has decided not to proceed with these proposed reforms, as it is considered that implementing such amendments would offer little tangible benefit and it is therefore not a worthwhile course of action at this time.

## **Clarifying fee structures**

Views were sought on a proposal to clarify regulation 18(4) to set out that competent authorities are not prevented from charging management and enforcement costs up-front providing the applicant is given the choice to pay once the authorisation has been approved.<sup>29</sup> This aimed to simplify the situation following domestic case law (Hemming versus Westminster Council) which prevented competent authorities from including

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<sup>27</sup> Refers to consultation question 30

<sup>28</sup> Refers to consultation question 31

<sup>29</sup> Refers to consultation question 33

management and enforcement costs in the initial application fee, resulting in authorities having to charge 2 fees.

Five of the respondents either agreed or strongly agreed with the proposal, and the remaining 4 that responded neither agreed nor disagreed. Most respondents that agreed also welcomed the additional clarity on the case law and the additional flexibility.

Competent authorities were asked whether they charge service providers for the costs of management or enforcement (or both) of an authorisation scheme.<sup>30</sup> Five respondents did charge service providers for the costs of management or enforcement, and 2 did not charge. Most either charged the additional fees within the application fee, or they operated an application fee for the authorisation and then an ongoing annual registration fee.

Competent authorities were also asked whether they charged the fee in 2 stages (that is, one fee at the point of submission, and then a further fee covering the costs of management, enforcement, or both).<sup>31</sup> Five respondents said no, and 2 respondents said yes. Of the respondents that stated they do have 2 fees, one of the competent authorities stated that the government was responsible for setting their fees in secondary legislation, and therefore they had limited influence on this matter. The other competent authority stated that they do charge a further fee, at the point that they are ready to grant the authorisation, but before it is issued. They suggested that this is quicker to process, and the cost of issuing refunds is higher, and less easy to administer, so they prefer charging fees in 2 parts.

When asked if competent authorities would want to be able to charge applicants for the costs of management and enforcement of an authorisation scheme up front, responses were mixed.<sup>32</sup> Three respondents answered 'yes', 3 answered 'no' (with one respondent highlighting that it was helpful to keep the levies separate to manage payments to their third-party partners), and one respondent was not sure.

Question 37 asked whether, from a range of options, service providers would prefer, either to pay 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, or 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. There were no responses to this question.

The government has decided to amend the legislation to expressly set out the position in the Hemming case, that at the point of an initial application, competent authorities must only charge service providers for the cost of processing their application. They may charge a service provider for other costs associated with the authorisation scheme once the

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<sup>30</sup> Refers to consultation question 34

<sup>31</sup> Refers to consultation question 35

<sup>32</sup> Refers to consultation question 36

application has been granted. This will benefit competent authorities by eliminating refund costs for unsuccessful applications and simplifying payment management. Further stakeholder engagement through interviews and questionnaires also showed that this fee structure is already common practice at most of the competent authorities to which the government spoke.

### **Documentation requirements, information sharing, renewal processes, and publication duties**

Question 38 asked about the proposed changes to regulation 31. This proposed that competent authorities do not have to accept any documents which serve an equivalent purpose to the documentation requested, or from which the requirement has been satisfied, where not doing so is appropriate to achieve an ORRPI. It further proposed that competent authorities should only require documents to be provided in their original form, or as a certified copy or certified translation, where appropriate, to achieve an ORRPI.

Five respondents either agreed or strongly agreed, and 4 respondents neither agreed nor disagreed with the proposals. Most competent authority respondents provided details of what documentation they required, and none indicated that the proposals would be an issue to implement. Some competent authorities highlighted that original documentation was required on a case-by-case basis, and wherever this was required, it was still justified by an ORRPI.

Questions 39 to 42 related to changes to be made to regulation 36, primarily to require competent authorities to provide specified information to the Secretary of State in electronic form (that is, by email), and to amend the list of information that competent authorities should provide to the Secretary of State to include some additional information and to remove some other information. The full list is set out in the original consultation documentation.

Respondents were asked whether they agreed with the proposal to require competent authorities to actively provide specific information to DBT, but to no longer require other pieces of information. Five respondents agreed or strongly agreed with the proposal, 3 respondents neither agreed nor disagreed, and one respondent strongly disagreed. Some respondents highlighted that they already make information disclosures to other departments and government departments should share information with each other, instead of requiring competent authorities to provide very similar information multiple times.

Another competent authority suggested that it would be helpful to receive regular reminders on the maintenance of information for 'Find A Licence' on GOV.UK, to ensure that the information is regularly updated. The respondent that strongly disagreed with the proposal stated that the information is already available on their website, and having to make

information disclosures to DBT is an additional administrative burden which could easily be missed.

Competent authorities were asked whether they have specific renewal dates for their authorisation schemes. Of the respondents, 4 stated they require renewal to take place either at the start of the new year (1 January), or before the end of the year (31 December). One competent authority operated renewals on the anniversary of the date of issue of the licence. One competent authority stated that renewal took place upon payment of the annual fee, which was on a date set by the competent authority.

Competent authorities were also asked whether there was a public database on the service activity that was relevant to them, beyond the registers of providers of the service.<sup>33</sup> Four respondents said they did not have additional public databases. Three respondents said that there were additional databases.

All respondents were asked whether there were any other proposals for how authorisation application processes could be improved.<sup>34</sup> One respondent highlighted that competent authority transparency would be beneficial, where they should set out what their responsibilities are.

There are currently inconsistencies in the information that competent authorities share online. The government will be taking forward amendments to the list of information that competent authorities must publish to ensure it meets the needs of applicants. Following consultation feedback, this list will slightly differ from the original proposal and will include information on monitoring processes, how long authorisations are valid for, fees, processing timeframes, and fines and penalties. The government will be removing the requirements to publish information on public databases (other than databases of service providers) and contact details of other organisations where service providers or service recipients may obtain practical assistance.

It will also remove the requirement to publish information on dispute resolution between providers and recipients, or other providers (retaining the requirement to publish information on available means of redress in the event of a dispute between the competent authority and applicant). In the longer form interviews competent authorities mostly agreed with the updated list of information to be shared that has been proposed.

These reforms will ensure that businesses can access the information they need to apply for the licences required to provide services in the UK, while reducing unnecessary requirements on competent authorities. They reflect the information sharing requirements the government has committed to in international trade agreements.

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<sup>33</sup> Refers to consultation question 41

<sup>34</sup> Refers to consultation question 42

### **Section 3: removing administrative requirements placed on service providers**

The proposals in this section of the consultation focused on streamlining requirements on service providers. Part 2 of the 2009 Regulations set out the duties on service providers to provide information to service recipients. Service providers are required to make available contact details and other information (such as VAT number, price of the service, and terms and conditions) and to respond to complaints from service recipients as quickly as possible and make their best effort for a satisfactory solution. The consultation document outlined that providing contact information was already covered in existing legislation, whereas it is unclear if the requirement to respond to complaints as quickly as possible is also covered.

This section asked service providers whether they would continue to make this information available to service recipients if these obligations in Part 2 were removed.<sup>35</sup> There was only one response to this question, with the respondent stating that they would continue to make the information available regardless of the removal, as they are bound to comply with legislation on consumer protection. The respondent would also not make any changes to the existing processes of responding to complaints and finding a satisfactory solution.

Service recipients were asked whether these requirements should be removed, however there were no responses to this question.<sup>36</sup>

The government has decided not to pursue the proposal to remove Part 2 of the 2009 Regulations. Part 2 will be retained, primarily to ensure that important consumer protections remain in place and to uphold confidence in service provision. This decision reflects the continued need to safeguard consumers while also supporting a fair regulatory environment for businesses.

### **Section 4: establish a system for monitoring compliance with the 2009 Regulations**

This section of the consultation focused on monitoring and compliance with the legislation and a proposed a light-touch mechanism within DBT to improve oversight of the regulatory environment.

All respondents were asked to what extent they agreed or disagreed with the introduction of a system for raising complaints concerning a competent authority not fulfilling its obligations under the 2009 Regulations.<sup>37</sup> A service provider responded that they strongly agreed with

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<sup>35</sup> Refers to consultation questions 43 to 44

<sup>36</sup> Refers to consultation question 45

<sup>37</sup> Refers to consultation question 46

this proposal, citing that previous issues they had with competent authorities' compliance had meant they had to resort to legal action.

The 7 responses from competent authorities were mixed, with only one agreeing with the proposal, 4 neither agreeing nor disagreeing with the proposal, one disagreeing and one strongly disagreeing. One of the competent authorities that strongly disagreed stated that there were already multiple oversight bodies and other government departments that they needed to respond to, adding another reporting line would therefore be disproportionate. They suggested that assurance could be maintained through the inspection reports of other oversight bodies.

Another competent authority that also disagreed with the introduction of a complaint system, also cited oversight bodies which carried out an annual regulatory performance assessment. Both responses indicate that any system would need to consider the additional resource cost on competent authorities as well as the role of other regulatory oversight bodies.

Competent authority respondents were asked about what procedures they had for service providers to raise complaints.<sup>38</sup> Most (5 out of 7) respondents had a complaints procedure in place which followed a standard organisational policy-led procedure. Two respondents, when asked to explain the previous answer, stated that while they do have a general process for complaints, they do not have a specific procedure for complaints made regarding non-compliance with the 2009 Regulations.

They were then asked what other procedures are in place other than direct complaints or legal action.<sup>39</sup> The example given was a complaint to a national regulator and/or the government. Five respondents stated that there were additional ways whereby a service provider could raise a complaint. These ranged from government departments to oversight regulators. One competent authority specified an oversight regulatory organisation but explained that they do not deal with complaints regarding the service that approved regulators provide. One competent authority stated that they were not sure.

The responses indicate that there is some variation among regulators and services as to the complaints procedures and compliance assurance.

After thorough engagement with stakeholders and a careful review of the feedback received, the government has determined that the approach originally proposed in this section of the consultation will not be taken forward. It became clear that the suggested measures would not be effective in practice. Instead, the government will now prioritise ongoing engagement with stakeholders, the development of practical toolkits, and the provision of clearer, improved guidance. This shift in focus aims to provide more meaningful support and clarity

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<sup>38</sup> Refers to consultation question 47

<sup>39</sup> Refers to consultation question 48

for service providers, rather than implementing specific regulatory changes that may not address the underlying issues.

## **Section 5: clarificatory changes and changes to remove references to EU provisions**

The changes proposed in section 5 were to remove references to the EU to make the legislation clearer for competent authorities and service providers to comply with, and to make clarificatory changes following the UK's EU exit.

All respondents were asked to what extent they agreed with the proposed changes.<sup>40</sup> Seven respondents agreed or strongly agreed with the proposal, with 2 respondents neither agreeing nor disagreeing. No respondents disagreed. When asked to provide further information on their responses, 2 respondents mentioned maintaining consumer protection as an important consideration.

All respondents were also asked if there was any other information which would be useful for the consultation.<sup>41</sup> One respondent indicated that the reforms should also take into consideration the supply of services through the internet, indicating that if individuals were providing advice from other countries and/or using servers based in other countries, it may not be clear which laws would be applicable to them.

Following the consultation, further work was undertaken to thoroughly assess the practicality and relevance of the proposed reforms. As a result, the decision was made not to pursue these specific reforms, choosing instead to concentrate on measures that address genuine and pressing operational issues. The focus has shifted towards implementing changes that will effectively resolve the real challenges faced by stakeholders, ensuring that any reforms bring meaningful improvements to the way services are delivered and regulated.

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<sup>40</sup> Refers to consultation question 49

<sup>41</sup> Refers to consultation question 50

## **Written response: summary of responses and issues raised**

One competent authority submitted a written response to the consultation. This response has not been included in previous analysis set out in this document. Their response highlighted the following issues.

The competent authority raised concerns that there was a risk of duplication and a potential for conflicting requirements with other legislation. They suggested that additional complaint routes and separate fees for application, enforcement and supervision were not particularly beneficial.

With respect to changing the definition of 'service provider', the competent authority raised reservations about being able to determine whether an activity would "predominantly lead to the production of goods". However, they suggested that it should not make a difference as this would not affect how they regulate (service providers would usually be regulated in the same way as other operators).

In relation to section 1, part A of the consultation, the competent authority highlighted that they already issue authorisations to foreign owner companies. However, in some cases, due to legislative requirements, there is an explicit requirement for a UK presence.

The competent authority raised concerns with how the scope of the 2009 Regulations would be disapplied from "any requirements that apply to a service provider, but which also apply to persons who are not service providers", as in practice this would be a challenge. The competent authority suggested that it is not clear how the exclusion would apply, as depending on the legislation a requirement may relate to a service provider, and in other instances it may not. However, because the way the competent authority regulates service providers and other operators does not differ, this may not be an issue.

Furthermore, where service regulations provisions clash with domestic requirements, it is likely that the competent authority will be able to justify the requirement through the use of an ORRPI. The competent authority reiterated that clarity on which activities are in scope of the regulations is also important.

The competent authority confirmed that they were satisfied with the proposal, in section 1, part C of the consultation, to revise the list of reasons permitted as an allowable exclusion for an overriding reason relating to the public interest.

## **Conclusion**

Following a comprehensive review of the consultation feedback received, as well as its wider stakeholder engagement, the government has decided to advance with a revised package of reforms to the 2009 Regulations. This approach reflects a balanced consideration of stakeholder input, whereby the government will introduce new proposals, retain select elements from the original reforms, and discontinue certain aspects that are no longer deemed appropriate. These changes aim to make processes for businesses fairer, more transparent, and easier to navigate.

## **Annex 1: organisation list of consultation respondents that consented to being named**

- Wentrow Media Ltd
- CILEx Regulation
- Rushmoor Borough Council
- British Chambers of Commerce

## **The Department for Business and Trade**

The Department for Business and Trade is an economic growth department. We ensure fair, competitive markets at home, secure access to new markets abroad and support businesses to invest, export and grow. Our priorities are the Industrial Strategy, Make Work Pay, the Trade Strategy and the Plan for Small Business.

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