

SITPRO

Simplifying International Trade

A Business Guide To The EU Services Directive



Produced in association with

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Introduction

The EU Services Directive will make it easier for service providers to set up in another EU Member State and to provide cross-border services in the whole of the EU by breaking down regulatory and procedural barriers.

Business will benefit because EU Member States have to:

- Abolish restrictive legislation and practices that constitute unjustified barriers to setting up a business and providing services in other EU Member States
- Set up points of single contact through which providers will be able to find all the information and complete all the formalities necessary to do business
- Facilitate greater co-operation between regulatory and authorisation bodies across the EU thereby reducing burdens on business
- Engender consumer confidence in cross-border service provision through access to information and ensuring the quality of services

Work permits: Note that, as a matter of EU law, you will generally not need work permits for your non-EU staff to provide temporary cross-border services in the EU insofar as your business is established in at least one EU Member State and your non-EU staff have work permits in that Member State. In such circumstances, short-stay visas will generally be sufficient for your non-EU staff to provide services on a temporary basis in any other EU Member State.

The EU Services Directive does not apply to all services. However, services excluded from the Directive are often governed by more specific EU legislation and, in any event, are subject to the free movement rules under the EU Treaty

Points of Single Contact

Member States' points of single contact (PSCs) are portals established specifically to enable service providers to find all the relevant information necessary to do business and complete electronically all procedures and formalities to provide their services in that Member State.

What it means for you

- The PSC will be a one stop shop for all the information and requirements that have to be complied with for establishment in the Member State whose PSC you have accessed. The UK's PSC will be all electronic, making access to information at a distance very simple
- In particular you will be able to determine the procedures and formalities to be completed in order to perform service activities and for consumers to access your services
- You will be able to obtain the contact details of the relevant competent authorities and the associations and organisations where you can obtain practical assistance
- You will find information on accessing public registers and databases on providers and services
- You will be able to establish the arrangements for the settlement of disputes between competent authorities and providers or recipients, between providers and consumers and between providers

Freedom to Establish

The EU Services Directive will facilitate establishing a business in the EU. It will also make it much easier for businesses established in one EU Member State to set up secondary establishments in any other EU Member State.

What it means for you

- The freedom to establish applies to all forms of establishment - principal or secondary, agency, branch or subsidiary
- EU Member States cannot restrict access to a service or the exercise of a service for reasons such as:
 - nationality or compliance with any residency requirements
 - being established in or entered on a professional register in more than one Member State
 - market competition or economic needs tests
 - an obligation to obtain insurance provided by suppliers in the Member State concerned
 - pre-registration
- You will not be obliged to duplicate any requirements which you have already satisfied in another or the same Member State
- Where access to the market is subject to a specific authorisation it must be justified by certain "overriding reasons" relating to the public interest. It must also be:
 - objective and non-discriminatory
 - proportionate
 - published and transparent
- Authorisations will be deemed to have been granted in the absence of a contrary indication within the time limit specified

Free Movement of Services

Member States will make it easier for businesses established in the EU to provide cross-border services in other EU Member States on a temporary basis.

What it means for you

- You will be able to provide services from one Member State to another without having to be established in that Member State
- You will not be required to obtain prior authorisation from the competent authorities or register with a professional body in that Member State to do so
- You will not require an identity document issued by the competent authorities where the service is to be supplied
- Member States will not be able to restrict a person or a business from using a service supplied by a provider in another Member State
- Restrictions can only be imposed if they are:
 - non-discriminatory with regard to nationality or the Member State of establishment
 - justified for overriding reasons of public policy, security, health or the protection of the environment
 - proportionate



Quality of Services

One of the biggest impediments to opening up the EU services markets has been consumers' concerns over the quality and safety of services supplied by providers in other Member States.

What it means for you

- Service providers will be obliged to provide information about their business to consumers as a matter of course and other information on request. All such information must be clear, easily accessible electronically and available in good time either before the conclusion of a written contract or the provision of the service
- Where a service presents a direct risk to health or safety or financial security you will have to satisfy any professional liability insurance requirements in the Member State where the service is to be provided
- You must supply information about where complaints should be addressed in the case of dispute and undertake to respond to complaints in the shortest possible time and make best efforts to find a satisfactory conclusion
- You may be encouraged to take voluntary action in order to ensure the quality of your services through certifications, assessments or a quality charter

Supervision

The Member State of establishment is generally responsible for the supervision of its service providers but the EU Services Directive requires that, in addition, Member States mutually assist each other and establish measures for effective cooperation with one another.

What it means for you

- Member States will co-operate to supply information about the reputation of your business, such as on disciplinary or administrative actions or criminal sanctions and decisions concerning insolvency or bankruptcy involving fraud
- Member States will be allowed to take measures related to the safety of services whenever they identify a problem and the measures taken by the Member State of establishment is insufficient or inadequate
- In the case of temporary movement, the Member State of establishment will continue to take responsibility for ensuring compliance with its supervisory requirements
- The Member State where the service is provided will ensure that while on its territory the service provider complies with its requirements for the access to and exercise of a service activity
- The competent authorities of the Member State where you provide the service must co-operate with the Member State of establishment, participate in the supervision of the provider and carry out any checks, inspections and investigations necessary to ensure effective supervision by the Member State of establishment

Multidisciplinary Activities

Member States must not introduce exclusivity over the supply of specific services to certain providers or restrict the exercise jointly or in partnership of different activities.

What it means for you

- You must be allowed to exercise your activities jointly with others
- You must prevent any conflicts of interest and incompatibilities between activities

Commercial Communications by the Regulated Professions

Member States must not place restrictions on advertising by the regulated professions.

They will however ensure that such advertising complies with professional rules (which must be non-discriminatory), in conformity with EU law

The EU Services Directive can be accessed on the European Commission's Europa website:

[http://eur-lex.europa.eu/LexUriServ/
LexUriServ.do?uri=OJ:L:2006:376:0036:0068:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0036:0068:EN:PDF)

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1st Floor
Kingsgate House
66-74 Victoria Street
London
SW1E 6SW

Telephone: +44 (0)20 7215 8150
Fax: +44 (0)20 7215 4242
Email: info@sitpro.org.uk
Website: www.sitpro.org.uk

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