EXPLANATORY MEMORANDUM TO

THE PROVISION OF SERVICES (AMENDMENT AND TRANSITIONAL PROVISION) REGULATIONS 2026

2026 No. 435

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Blair McDougall, Parliamentary Under-Secretary of State (Minister for Small Business and Economic Transformation) in the Department for Business and Trade ("DBT") confirms that this Explanatory Memorandum meets the required standard.

2.2 Tim Courtney, Director for EU and Services, Trade Group, at DBT confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jack Rae, Head of Services Frameworks at DBT, can be contacted by email at the following address with any queries regarding the instrument: servicesregulations@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 In the UK, most service-based businesses are required to obtain prior authorisation to enter the market and carry out their service activities. These authorisations include licences, permits, and in some cases registration. Service based businesses account for 80% of the UK's economy and range from sole traders such as electricians and hairdressers, to hospitality establishments and leisure providers. Many professional services, including accountants and solicitors, are also subject to authorisation requirements.

4.2 This instrument amends requirements placed on regulators and local authorities ("competent authorities") who administer authorisation schemes by the Provision of Services Regulations 2009 ("the 2009 Regulations"). It strengthens communication and transparency requirements on competent authorities, ensuring businesses can easily access information, easily apply for authorisations, and better communicate with competent authorities. The instrument will clarify and streamline competent authorities' administrative processes, thereby improving their efficiency. This will assist businesses by reducing unnecessary administrative burdens often associated with authorisation applications.

4.3 The instrument also ensures the 2009 Regulations align with commitments in Domestic Regulation chapters of the UK's Free Trade Agreements which have been agreed since the 2009 Regulations came into force.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) in which the interment forms part of the law) is England and Wales, Scotland and Northern Ireland.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The 2009 Regulations implemented the EU Services Directive 2006, setting out rules relating to the provision and supervision of services within the internal market. They placed duties on competent authorities when administering authorisation schemes (concerning the grant of licences required before providing a service). These include duties to ensure schemes are proportionate, justified in the public interest, and administered in a fair, accessible and transparent way. The 2009 Regulations also implement Domestic Regulation commitments in the UK's Free Trade Agreements.

5.2 Following the UK's exit from the EU, the 2009 Regulations became Retained EU Law and continued to apply to UK-established competent authorities, service providers and service recipients in relation to services provided in the UK. As part of its review of the 2009 Regulations, DBT's predecessor department (Department for Business, Energy and Industrial Strategy) (BEIS)) sought to establish how effectively the 2009 Regulations continued to operate in a domestic context and whether they met the current needs of businesses and competent authorities.

5.3 BEIS commissioned NOUS to conduct a social research project on the effectiveness and limitations of the 2009 Regulations. Further, BEIS conducted their own engagement with competent authorities and businesses across the UK to determine if there were opportunities to improve the legislation. Feedback from businesses indicated that some authorisation scheme processes and procedures lacked clarity and accessibility. They reported delays, limited responsiveness, and inconsistent application of authorisation scheme requirements. As a result, service providers faced increased administrative burdens and unnecessary delays in securing authorisations. Stakeholder responses and the social research evidence also indicated that these issues negatively impacted smaller businesses, economic growth, and the effective operation of competent authorities. As a result of feedback from businesses and competent authorities, DBT published a consultation (see section 7 below) seeking stakeholder views on proposals to address these issues.

5.4 The reforms made by this instrument, which will use the 2023 Act to amend the 2009 Regulations, are therefore intended to achieve two main objectives:

- to ensure competent authorities' authorisation schemes operate in way that better meets the needs of service providers; and
- to align the 2009 Regulations with the UK's current Domestic Regulation commitments in the UK's Free Trade Agreements.

5.5 By clarifying processes and procedures, improving communication, and enhancing digital processes, these reforms are intended to establish a clearer and more consistent approach to authorisation across the UK, thereby reducing administrative burdens for businesses and supporting economic growth.

What was the previous policy, how is this different?

5.6 The underlying policy objective remains unchanged, but this instrument seeks to strengthen the regulatory framework by clarifying existing duties placed on competent authorities and to improve processes by addressing the problems identified with their operation. The instrument therefore continues to support the previous policy goals of ensuring that authorisation schemes are proportionate, justified in the public interest, and administered in a fair, transparent and accessible way.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument uses powers in the 2023 Act to restate, revoke and, where necessary, replace provisions in the 2009 Regulations which form part of assimilated secondary legislation. The changes update and clarify the authorisation framework for service providers, reflecting current operational practice, relevant case law, and the UK's international commitments on domestic regulation.

6.2 This instrument updates the 2009 Regulations' territorial scope. Although the 2009 Regulations were amended in 2018[1] to apply only to service providers and recipients established in the UK, in practice, competent authorities do not operate different authorisation processes based on nationality or place of establishment. The instrument therefore amends the 2009 Regulations such that all service providers supplying services in the UK, and all service recipients in the UK, fall within scope. This aligns the legislation with operational reality and brings it into closer conformity with the UK's domestic regulation commitments.

6.3 This instrument clarifies the rules on authorisation fees. Following the judgement in *R (Hemming (t/a Simply Pleasure Ltd)) - v - Westminster City Council*,[2] the 2009 Regulations are restated to make clear that only costs directly related to processing and granting an application may be charged at the initial application stage, while other fees may be charged once an authorisation is granted.

6.4 The instrument revokes and replaces the procedural framework for handling authorisation requests. The 2009 Regulations did not set out detailed requirements which has contributed to inconsistency and uncertainty for service providers. The new provisions establish a clearer and more efficient framework, including duties on competent authorities relating to application acknowledgements, timeframes, written updates and decisions, tacit authorisation and examination scheduling. These changes also reflect the more detailed authorisation processes now required under the UK's domestic regulation commitments in several Free Trade Agreements.

6.5 The instrument updates the information publication requirements that apply to competent authorities. Unnecessary and unclear requirements are removed, and authorities are required to publish a wider range of relevant information for applicants. Authorities may comply with these obligations either through the 'Find A Licence' tool on gov.uk or by publishing the information on their own website.

6.6 This instrument includes a saving and transitional provision to ensure legal certainty. The new requirements apply only to applications received on or after 5th October 2026, including resubmitted applications received after that date.

Why was this approach taken to change the law?

6.7 The 2023 Act provides the necessary vires to restate, revoke and replace provisions

[1] The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018.
[2] [2015] UKSC 25.

within the existing framework, allowing the 2009 Regulations to be updated and made more effective without creating a new legislative regime. As the instrument does not alter the underlying policy objectives, there is no need for a new legislative scheme.

6.8 Non-legislative options, such as issuing guidance, were considered but were not sufficient for the purposes of these reforms.

7. Consultation

Summary of consultation outcome and methodology

7.1 The consultation was published online on the UK government website and ran for 8 weeks from the 13 September 2023 to 13 November 2023 ("the consultation period"). The consultation sought views from different UK stakeholders, including competent authorities, service providers, and service recipients.

7.2 During the consultation period, DBT officials ran a series of workshops that focussed on different stakeholders, including for competent authorities, service providers, and officials from the Devolved Governments ("DG") to support understanding of the proposed reforms, their potential impact on them, and to answer any questions.

7.3 DBT received nine responses to the formal online consultation and five additional written letters. The responses received were comprised of the following: seven competent authorities (five independent competent authorities, one local authority and one government department), one service provider and one business representative organisation. The five written letters were from Public Bodies, including Government Departments and Arm's-length Bodies. As the consultation evidence on these impacts was limited, DBT undertook additional informal engagement to further understand how the reforms might affect stakeholders.

7.4 Overall, sentiment towards the proposed reforms in the consultation were mixed, but generally supportive. Throughout the consultation respondents frequently emphasised the need to avoid unnecessary burdens and practical constraints.

7.5 Following a comprehensive review of the formal consultation feedback and the further informal engagement received, the Government decided to proceed 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.

7.6 DBT engaged regularly with Devolved Government officials on the proposed amendments to ensure the reform proposals effectively consider implications on them. On 11 November 2025, ministerial letters were shared with each of the DGs to seek their agreement to proceed with the SI in areas of devolved competence. This is in line with the commitment made by the UK Government in following the passing of the 2023 Act, on the use of delegated powers in devolved areas. DGs provided their agreement to this REUL SI.

8. Applicable Guidance

8.1 The Government will produce guidance for local authorities and competent authorities explaining how the instrument measure affects them and their functions, before this instrument comes into force on 01 October 2026.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The impact of this instrument is expected to fall below the de minimis threshold, and therefore a full Impact Assessment has not been prepared. The direct costs associated with implementing these reforms are expected to fall on competent authorities which are out of the scope of the estimated annual net direct cost to business (EANDCB) calculations. It has not been possible to quantify these costs due to a lack of available data. However, the reforms will make highly targeted adjustments to improve regulatory clarity and align processes with trade commitments. They are therefore not expected to cause any significant costs to competent authorities and will ultimately reduce administrative burdens for business by making the system more efficient, easier to navigate, and more responsive to their needs.

9.2 It has not been possible to quantify these business benefits given the range of processes in place across competent authorities, and the variation in uptake of licences. However, based on available evidence it has been determined that there would be 'no to minimal positive impact' on businesses across the reforms. The reforms do not represent a substantial policy change, and the impact of these reforms will, therefore, vary dependent on competent authorities' current practices and compliance with the Regulations.

9.3 Evidence used in the De Minimis Impact Assessment was gathered from prior evaluation, consultation and wider engagement. A 2022 independent evaluation[3] based on surveys and interviews with competent authorities and service providers found broad compliance with the regulations (78% of the 29 surveyed and 96% of the 24 interviewed). However, some service providers reported that they experienced long processing times, unclear procedures and limited support and as such stated a more efficient process would be welcome. Subsequent engagement flagged confusion around when the processing period for tacit authorisation started and gaps in communication between business and authorities which led to delays and additional administrative burdens for both parties.

Impact on businesses, charities and voluntary bodies

9.4 There are no additional requirements for businesses, charities, or voluntary bodies. However, these entities are expected to benefit from the reforms as authorisation procedures become more transparent and easier to navigate.

9.5 The legislation does not have a negative impact on small or micro businesses. It is anticipated that small or micro businesses will benefit from better information and clearer processes introduced by the regulatory changes which could lead to the reduction of barriers to market entry.

9.6 The impact on the public sector is that local authorities and other competent authorities will be required to ensure that their requirements and administrative practices and procedures do not contravene the Regulations.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As this instrument is only made under the relevant European Union Acts (as defined

[3] https://www.gov.uk/government/publications/evaluation-of-the-provision-of-services-regulations-2009

at 13.1), no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument was laid for sifting, with the same name, on 06 March 2026 under the powers in sections 12(1), 14(1), 14(2) and 20(1)(a) and (b), and the procedure in Schedule 5 of the Retained EU Law (Revocation and Reform) Act 2023. The Sifting Committees approved the instrument proceeding as a negative SI.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is made under sections 12(1), 14(1) and 14(2) of the 2023 Act and therefore relates to the reform of secondary assimilated law. The Minister has made any relevant statements, below, under the 2023 Act.

Sifting Statement

13.2 The Minister for Enterprise, Markets and Small Business at the Department for Business and Trade has made the following statement regarding use of legislative powers in the Retained EU Law (Revocation and Reform) Act 2023:

"In my view the Provision of Services (Amendment and Transitional Provision) Regulations 2026 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure). This is because the changes made by the instrument are intended to clarify the existing regulatory framework without introducing substantive policy changes. It enhances communication and transparency obligations on competent authorities, making it easier for businesses to obtain information, apply for authorisations, and interact with authorities. It simplifies administrative procedures to boost efficiency and reduce unnecessary burdens for businesses. Further, the instrument enhances the 2009 Regulations' consistency with the UK's domestic regulation commitments in Free Trade Agreements."