



The Provision of Services Regulations 2009

At the end of 2009 the government introduced new Regulations that require service providers to make available prescribed information about themselves and their services to recipients. Business services fall within the scope of the Regulations, therefore so do the professional services that accountants provide. As a result of these new Regulations you may find that you need to add further information about the services you provide to your engagement letters or website or make changes to your business stationery, although you are not specifically required to make changes to all.

This factsheet provides introductory background information on the Regulations and also provides links to the Regulations themselves, the guidance available from the Department for Business Innovation & Skills (BIS), along with that available from the main accountancy Institutes and Association. Once you have reviewed the requirements of the Regulations and the supplementary guidance available you will be able to decide how you would like to deal with the requirements. In making your decision we recommend that you review the guidance available from your governing Institute or Association.

To help you assess the extent of any additional information now needed you'll find a checklist at the end of this factsheet. This will help you to indicate how you already make the required information available or will make this available going forward.

What are the Provision of Services Regulations 2009?

The Regulations are contained in Statutory Instrument 2009 No. 2999, The Provision of Services Regulations 2009. They came into force in UK law as a result of EU Directive 2006/123/EC on services in the internal market, which is generally known as the EU Services Directive.

The Directive includes a number of requirements for EEA states to implement, details of which can be found in the BIS guidance entitled 'Guidance for Business on the Provision of Services Regulations 2009'. You can access a copy of this guidance at www.bis.gov.uk/files/file53100.pdf

One of the requirements is for service providers to make certain information available for recipients of their services and it is this requirement alone that we are concerned with in this factsheet. The BIS guidance states that *'the aim of these requirements is to ensure that service recipients have access to a minimum amount of information and to a complaints procedure. This should enable recipients to make more informed decisions when considering whether to buy services from a particular provider and should widen the choice of providers available to them. These requirements are, in general, already common practice, and we do not expect many service providers to have to make major changes to their procedures.'*

As you will see from the UK Regulations, information such as the service provider's legal status and form, contact details and regulatory body, as well as complaints procedure must be made available. The Regulations can be accessed at www.opsi.gov.uk/si/si2009/pdf/uksi_20092999_en.pdf. They took effect from 28th December 2009.

What information must be made available?

Full details of the information that must be made available can be found in the Regulations linked to above. We have summarised these in the appendix to this factsheet, where you will also be able to indicate how you make the relevant information available. You should review requirements of the Regulations carefully, in particular those in Part 2. Broadly, the categories covered are:

- contact details which must be made available to all service recipients so that they can send a complaint or request further information about the service
- other information which must be made available to a service recipient

information which must be supplied at the request of a service recipient.

How should the information be made available?

The Regulations set out the circumstances under which information is considered to be made available but do not specify how particular information must be made available. For example, they do not state that the details of your professional indemnity insurance provider must appear on your website but they do state if your firm is subject to a requirement to hold professional liability insurance that the contact details of the insurer and the territorial coverage of the insurance must be made available.

Under Regulation 8(2) information is considered to be made available to a service recipient if:

it is supplied by the provider to the recipient on the provider's own initiative (for example, on your business stationery or in promotional brochures)

it is easily accessible to the recipient at the place where the service is provided or the contract for the service is concluded (for example, via a notice in your firm's offices)

it is easily accessible to the recipient electronically by means of an address supplied by the provider (for example, by providing the exact address of where the information can be found on your website) or

it appears in any information document supplied to the recipient by the provider in which the provider gives a detailed description of the service (for example, in your engagement letters).

The information must be made available or supplied "in a clear and unambiguous manner, and in good time before the conclusion of the contract or, where there is no written contract, before the service is provided". Clearly for firms of accountants the contract would be the engagement letter.

But surely most of this information is already on my website or in my correspondence?

This will be true, at least in part, for many firms. However, the Regulations, require more information to be made available than was typically the case before. How you meet the individual disclosure requirements is up to you and as you can see from the list above there are a number of options to consider. There is no requirement that says that all of the information must be made publicly available in one place.

Is there any other guidance available to help?

Yes, we are aware that the main accountancy Institutes and Association have complied guidance for their members. You are likely to have to log in as a member, as applicable, to obtain this and we strongly recommend that you do as example wording is available to help you meet the legal requirements of these Regulations.

Members of the ICAEW - Practice Assurance Helpsheet PAS1/HS22: Services Directive, available at www.icaew.com/index.cfm/route/150540/icaew_ga/en/Members/Member_restricted_content

Members of the ICAS - www.icas.org.uk/site/cms/contentviewarticle.asp?article=6733

Members of the ACCA - uk.accaglobal.com/uk/members/technical/practice/what_new/changes

Is there anything else you should know?

The full scope of the Regulations is set out in the BIS guidance linked to above, obviously along with the Regulations themselves. It is worth noting that the Regulations also introduce a legal requirement that the provider of a service must both respond to complaints from recipients of the service as quickly as possible and make their best efforts to find a satisfactory solution to complaints from such recipients. The second part of this requirement does not apply to complaints that are vexatious.

The Regulations and guidance also explain what could happen if you breach these Regulations. The Office of Fair Trading and other consumer bodies can take action against businesses who do not comply if the breach harms the collective interests of consumers.

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Appendix 1 - The Information Requirements of the Provision of Services Regulations 2009

The checklist below represents the duties of service providers to make contact details and other information available to service recipients. You can use the columns on the right to indicate how you already make this information available and where you find that you do not, to indicate how you will make this available. Remember, under Regulation 8(2) information is considered to be made available to a service recipient if:

- N** it is easily accessible to the recipient at the place where the service is provided or the contract for the service is concluded (for example, via a Notice in your firm's offices)
- E** it appears in any information document supplied to the recipient by the provider in which the provider gives a detailed description of the service (for example, in your Engagement letters)
- W** it is easily accessible to the recipient electronically by means of an address supplied by the provider (for example on your Website) or
- S** it is supplied by the provider to the recipient on the provider's own initiative (for example, on your business Stationery or letterhead).

You can use the abbreviations on the left to summarise your position.

Regulation	Information to be made available	Already made available via N. E. W. S:	Action req'd. Make available via N. E. W. S
7(1)	The provider of a service must make available contact details to which all recipients of the service can send a complaint or a request for information about the service.		
7(2)	Those contact details must include in particular:		
	(a) a postal address, fax number or e-mail address,		
	(b) a telephone number, and		
	(c) where the service provider has an official address, that address.		
7(3)	In 7(2)(c) "official address" means an address which a person is required by law to register, notify or maintain for the purpose of receiving notices or other communications.		
8(1)	The provider of a service must make the following information available to a recipient of the service:		
	(a) the provider's name;		
	(b) the provider's legal status and form;		
	(c) the geographic address at which the provider is established and details by which the provider may be contacted rapidly and communicated with directly (including, where the provider may be contacted and communicated with by electronic means, the details of how the provider may be so contacted and communicated with);		
	(d) where the provider is registered in a trade or other similar public register, the name of the register and the provider's registration number or equivalent means of identification in that register;		

Regulation	Information to be made available	Already made available via N. E. W. S:	Action req'd. Make available via N. E. W. S
8(1) cont..	(e) where the activity is subject to an authorisation scheme in the United Kingdom, the particulars of the relevant competent authority or the electronic assistance facility referred to in regulation 38;		
	(f) where the activity is subject in another EEA state to a scheme equivalent to an authorisation scheme, the particulars of the authority involved or the single point of contact in that state;		
	(g) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the member states relating to turnover taxes – Common system of value added tax: uniform basis of assessment;		
	(h) where the provider is carrying on a regulated profession, any professional body or similar institution with which the provider is registered, the professional title and the EEA state in which that title has been granted;		
	(i) the general terms and conditions, if any, used by the provider;		
	(j) the existence of contractual terms, if any, used by the provider concerning the competent courts or the law applicable to the contract;		
	(k) the existence of any after-sales guarantee not imposed by law;		
	(l) the price of the service, where a price is pre-determined by the provider for a given type of service;		
	(m) the main features of the service, if not already apparent from the context;		
	(n) where the provider is subject to a requirement to hold any professional liability insurance or guarantee, information about the insurance or guarantee and in particular:		
	(i) the contact details of the insurer or guarantor, and		
	(ii) the territorial coverage of the insurance or guarantee.		
10	The provider of a service who is subject to a code of conduct, or is a member of a trade association or professional body, which provides for recourse to a non-judicial dispute resolution procedure must:		
	(a) inform a recipient of the service of that fact, and		
	(b) mention it in any information document in which the provider gives a detailed description of the service,		
	specifying how to access detailed information about that procedure.		

Regulation	Information to be made available <u>on request</u>	Already made available via N. E. W. S:	Action req'd. Make available via N. E. W. S
9(1)	The provider of a service must, on the request of a recipient of the service, supply the following information to the recipient:		
	(a) where the price is not pre-determined by the provider for a given type of service:		
	(i) the price of the service, or		
	(ii) if an exact price cannot be given, the method for calculating the price so that it can be checked by the recipient, or a sufficiently detailed estimate;		
	(b) where the provider is carrying on a regulated profession, a reference to the professional rules applicable in the EEA state in which the provider is established and how to access them;		
	(c) information on other activities undertaken by the provider which are directly linked to the service in question and on the measures taken to avoid conflicts of interest;		
	(d) any codes of conduct to which the provider is subject and the address at which these codes may be consulted by electronic means, specifying the language available.		
9(2)	The information referred to in 9(1)(c) must be included in any information document in which the provider gives a detailed description of the service.		

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