

France

The information provided below refers to legal provisions adopted or modified pursuant to the implementation of the Services Directive as well as to legal provisions which Member States have indicated as being applicable to service providers in the areas covered by the directive. The information has been provided by France in the context of the implementation of the Services Directive and of the mutual evaluation process. It does not represent a legal analysis or a position of the European Commission in respect of compliance with EU law in general or with the Services Directive in particular. National legal provisions might have suffered amendments during the mutual evaluation process so interested parties are invited to check national legislation in force.

French Authorities have made public information on the legal provisions maintained, modified or abolished in the context of the implementation of the Services Directive. These two documents are available at:

http://www.sgae.gouv.fr/actualites/htmlpages/actu_transpo_directive_service.html

Main changes to French legislation

France decided not to implement the Services Directive by a horizontal law but rather through targeted amendments in existing legislation.

In this context, the Law on the Modernisation of the Economy No 2008-776 of 4 August 2008 comprises in particular provisions opening up shareholding requirements regarding the capital of companies for the exercise of liberal professions (*sociétés d'exercice libéral*, SEL), a reform of retail planning and the abolition of the authorisation requirement to open hotel establishments.¹

Law No 2009-888 of 22 July 2009 for the development and modernisation of tourist services reforms and modernise the regulatory framework applicable to a number of services in the tourism sector and Law No 2009-879 of 21 July 2009 on hospital reform and relating to patients and healthcare² includes provisions that concern authorisation schemes related to certain social services.

Examples of authorisation schemes imposed on service providers established in France

France has reported the obligation for established civil and commercial companies to register with the register of commerce and companies³, while natural persons and legal entities that do not employ more than 10 people and that run a small-scale craft business must be registered in the crafts register ("*répertoire des métiers*").

France has also reported specific authorisation schemes in several service sectors.

Authorisations for retail outlets have undergone significant changes, including simplified criteria, increase of the threshold above which an authorisation is required (from 300 sqm to 1,000 sqm), removal of the involvement of competitors, and shorter deadlines.

¹ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000019283050>

² http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=8D29253A7B94E2C2E69236CF9DEFC412.tpdjo16v_2?cidTexte=JORFTEXT000020879475&dateTexte=20100616

³ Commercial Code (Articles L. 123-1 to L. 123-9-1, R. 123-31 to R. 123-149, A. 123-12 to A. 123-64 du code de commerce - www.legifrance.gouv.fr)

Authorisations are also required for real estate agents⁴ and travel agents.⁵ In respect of hotels, a previously existing authorisation scheme has been abolished and the classification system has been reformed.⁶

Existing authorisations have also been reported in respect of a number of private social services, not requiring public funding, and which are covered by the Services Directive, such as accommodation and/or care for the elderly, kindergartens, home help and domiciliary childcare services.⁷

Examples of other types of requirements imposed on service providers established in France

Legal form requirements are applicable to several regulated professions, such as accountants,⁸ veterinarians⁹ or land surveyors¹⁰. France has reported that a new law (still being discussed in Parliament)¹¹ will allow the exercise of the profession of accountant in any legal form except those that are considered by law as commercial companies.¹² In respect of artistic agents, the same law allows for the exercise of the activity in any legal form.

Shareholding requirements are also applicable to regulated professions, such as accountants, veterinarians, architects or land surveyors, but a new provision has raised the maximum share of capital that may be held by third parties to 49% from previously 25%, except for legal professions.¹³

Examples of requirements on multidisciplinary activities of the regulated professions or in the area of certification, accreditation, technical monitoring and testing services

The requirement that travel agents exercise their activity exclusively has been abolished.¹⁴

A series of service activities are subject to incompatibility rules, such as land surveyors¹⁵, vehicle assessors¹⁶, specialists determining whether a property is fit for sale¹⁷, technical lift¹⁸ and construction inspection¹⁹, and metrology²⁰.

⁴ Law No 70-9 of 2 January 1970, Decree No 72-678 of 20 July 1972.

⁵ Law No 2009-888 of 22 July 2009.

⁶ Law No 2008-776 of 4 August 2008, Law No 2009-888 of 22 July 2009.

⁷ Code for Social Action and the Family, Labour Code.

⁸ Ordinance No 45-2138 of 19 September 1945, Law No 90-1238 of 31 December 1990, Law No 2001-1168 of 11 December 2001.

⁹ Article 1845 of Code civil; Article 1 Law n°66-879 of November 29, 1966 on "sociétés civiles professionnelles"; Article 1 Law n°90-1258 of December 31, 1990.

¹⁰ Décret n° 92-618 July 6, 1992.

¹¹ Draft law on consular networks, commerce, the small business sector and services still pending in Parliament.

¹² Draft law on consular networks, commerce, the small business sector and services still pending in Parliament.

¹³ Law on the Modernisation of the Economy No 2008-776 of 4 August 2008

http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=8D29253A7B94E2C2E69236CF9DEFC412.tpdjo16v_2?cidTexte=JORFTEXT000020893055&dateTexte=20100616.

¹⁵ Article 8-1 Law n°46-942, May 7th 1946.

¹⁶ Article L.326-6 of French Road code.

¹⁷ http://www.legifrance.gouv.fr/affichCode.do;jsessionid=983AE9009D2E98CDA901798DD166B6D0.tpdjo11v_1?idSectionTA=LEGISCTA000006176358&cidTexte=LEGITEXT000006074096&dateTexte=20091018.

Examples of requirements which apply to service providers established in other Member States and providing services in France

Authorisations are required for several services provided by established or cross-border providers, for example for furniture removal services including transport²¹, collective care of minors (youth recreational centres)²² and automobile sports events on public highways²³. Requirements concerning insurance are applicable to real estate agents²⁴ or in the construction sector²⁵ regardless of whether the service is carried out by established or cross-border providers.

Several requirements have been reported as abolished for cross-border providers. For instance, France reported that tariff requirements have been abolished in respect of cross-border sports agents²⁶. Tariff requirements exist in respect of artistic agents²⁷ but France reported that a draft law, currently discussed in Parliament, will abolish these tariffs in respect of cross-border services.

Several sectors (mostly business services such as IT sector, engineering, advertising agencies) are not subject to authorisations/requirements and some authorisations/requirements are covered by other Community instruments (such as Directive 2005/36/EC or Directive 90/314/EC).

¹⁸http://www.legifrance.gouv.fr/affichCode.do;jsessionid=87173140B22D9C265C86B003178F9837.tpdjo11v_1?idSectionTA=LEGISCTA000006176258&cidTexte=LEGITEXT000006074096&dateTexte=20091018.

¹⁹http://www.legifrance.gouv.fr/affichCode.do;jsessionid=245E335C33C2D62FA783D979730AE335.tpdjo15v_2?idSectionTA=LEGISCTA000006176239&cidTexte=LEGITEXT000006074096&dateTexte=20091018.

²⁰ Décret n° 2001-387, May 3rd 2001.

²¹ Law n° 82-1153, December 30th 1982.

²²http://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=9A8CFE685114900A83BF30F0F3005F75.tpdjo04v_2?cidTexte=JORFTEXT000000631486&idArticle=LEGIARTI000006682524&dateTexte=20091229&categorieLien=id.

²³ Art. L411-7 Road Code.

²⁴<http://www.legifrance.gouv.fr/.affichTexte.do?cidTexte=JORFTEXT000000512228&fastPos=1&fastReqId=428103637&categorieLien=cid&oldAction=rechTexte>.

²⁵http://www.legifrance.gouv.fr/affichCode.do;jsessionid=369FDC91E55F37D0A913E0ABDD451ACC.tpdjo11v_2?idSectionTA=LEGISCTA000006176242&cidTexte=LEGITEXT000006074096&dateTexte=20091025.

²⁶ Sport Code: L 222-10.

²⁷ Labour code: articles L7121-9 to L7121-30, R7121-1 to R7121-27 and R7121-50 to R7121-64.