

Luxembourg

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 Luxembourg 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.

Main changes to Luxembourg legislation

Luxembourg is in the process of adopting a framework law (No 6022) implementing the main principles of the Services Directive into national law¹. A number of sector-specific changes are intended to be implemented by amendment of several existing laws ("lois") and regulations ("règlements grand-ducaux"). Among these, the ongoing reform of the horizontal "establishment" law (see below) is particularly relevant.

Examples of authorisation schemes imposed on service providers established in Luxembourg

The main authorisation procedure for establishing a business in Luxembourg is the so-called "establishment" authorisation, foreseen by the amended "establishment" law of 28 December 1988². It covers a wide array of service activities such as all commercial and crafts activities as well as certain liberal professions (such as architects, engineers, lawyers and certified accountants). A general reform of this law is ongoing and Luxembourg has submitted to parliament a draft law which also aims to adapt the "establishment" law to the Services Directive's requirements, but in principle it is foreseen to maintain the principle of prior authorisation for all activities covered by this law.

Luxembourg has also maintained a horizontal authorisation scheme for specific types of infrastructure or installations which present a potential risk for people and the environment.³

Besides the "horizontal" authorisation schemes mentioned above, Luxembourg has reported authorisation schemes in several service sectors.

Luxembourg is planning to amend the specific law regulating the opening of large retail outlets, which currently makes the granting of a permit subject to an "economic needs test"⁴.

In the area of services provided by electricians, Luxembourg is planning to abolish the obligation for electricians to obtain separate authorisations for different voltage categories⁵.

¹ The opinion of the "Conseil d'Etat" was adopted in June. The draft law is currently examined in Parliament.

² Loi modifiée du 12 décembre 1988 réglementant l'accès aux professions d'artisan, de commerçant, d'industriel ainsi qu'à certaines professions libérales,

<http://www.legilux.public.lu/leg/a/archives/1988/0072/1988A14941.html>

³ Loi du 19 novembre 2003 modifiant la loi du 10 juin 1999 relative aux établissements classés,

<http://www.legilux.public.lu/leg/a/archives/2003/1692611/1692611.pdf?SID=809fb8334c0a655e918fcf2888000103#page=2>

⁴ Loi du 04.11.1997 portant modification des articles 2, 12, 22 et 26 de la loi modifiée du 28.12.1988 concernant le droit d'établissement, http://www.mcm.public.lu/fr/legislation/loi_1988_modif1997.pdf

Private education establishments, such as private primary schools or providers of vocational training, are subject to specific authorisations⁶.

In the field of tourism, there are authorisation schemes in respect to the labelling of hotels and camping grounds.⁷

A number of authorisation schemes also exist in the field of environmental protection. In particular, so-called "classified facilities" (any type of building project having an impact on the environment) are subject to a permit⁸.

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

As regards quantitative/territorial restrictions, Luxembourg is planning to abolish them in respect of establishments serving alcoholic beverages for consumption on the premises⁹.

Luxembourg applies maximum tariffs to the services provided by driving schools¹⁰.

Quantitative/territorial restrictions and legal form requirements are applicable to experts and inspection bodies assisting the public labour inspection services¹¹.

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

Such restrictions exist in Luxembourg in respect of regulated professions, in particular as regards certified accountants¹², architects and consulting engineers¹³. Luxembourg also applies such a restriction to experts and control bodies assisting the public labour inspection services¹⁴.

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

Authorisations are required for cross-border providers of services of collection and transport of waste and for those providing waste disposal or recycling services on behalf of third

⁵ Loi du 20 mai 2008 relative à la création d'un Institut luxembourgeois de la normalisation, de l'accréditation, de la sécurité et qualité des produits et services, <http://www.ilnas.public.lu/fr/legislation/loi-ilnas.pdf>

⁶ Law of 13 June 2003 on relations between the State and private education establishments and repealing Articles 83 to 87 of the amended law of 10 August 1912 on the organisation of primary education, Amended law of 22 June 1999 with the objective of 1. supporting and developing ongoing professional training and 2. amending the amended law of 28 December 1988 regulating access to the professions of craftsman, tradesman, industrialist and certain liberal professions.

⁷ Law of 11 July 1957 regulating camping, Law of 25 April 1970 amending and supplementing the law of 17 July 1960 establishing hotel status (hotel designation)

⁸ Law of 19 November 2003 amending the law of 10 June 1999 on classified facilities.

⁹ Loi modifiée du 29 juin 1989 portant réforme du régime des cabarets
<http://www.legilux.public.lu/leg/a/archives/1989/0043/a043.pdf#page=2>

¹⁰ Règlement grand-ducal déterminant le contenu de l'instruction préparatoire aux examens du permis de conduire ainsi que l'exercice de la profession d'instructeur de candidats conducteurs
http://www.legilux.public.lu/leg/textescoordonnes/codes/code_route/PERMIS_CONDUIRE.pdf

¹¹ Art. L. 614-7. du Code du travail <http://www.legilux.public.lu/leg/a/archives/2007/0249/a249.pdf>

¹² Law of 10 June 1999 on the organisation of the profession of accountant.

¹³ Law of 13 December 1989 regulating the organisation of the professions of architect and consulting engineer.

¹⁴ Art. L. 614-7. du Code du travail <http://www.legilux.public.lu/leg/a/archives/2007/0249/a249.pdf>

parties,¹⁵ technical tasks concerning the investigation and inspection of environmental matters,¹⁶ such as environmental impact assessments. A prior authorisation is also required for experts assisting the labour inspection in carrying out checks and technical examinations in the area of occupational safety, as well as the safety of the surrounding area and the general public.¹⁷

Luxembourg also imposes a general obligation of an annual declaration concerning professional qualifications on businesses who intend to provide cross-border services in the area of crafts and industry¹⁸.

¹⁵ Law of 1 December 2006 amending the amended law of 17 June 1994 on the prevention and management of waste

¹⁶ Law of 21 April 1993 on the registration of public or private natural or legal persons, other than the State, for carrying out technical tasks concerning the investigation and inspection of environmental matters

¹⁷ Labour Code

¹⁸ Article 20 of the law of 28 December 1988 - 1. regulating access to the professions of craftsman, tradesman, industrialist and certain liberal professions; 2. amending Article 4 of the law of 2 July 1935 regulating the conditions for obtaining the title of craftsman and the corresponding licence in the exercise of the trades