

PROVISION OF SERVICES REGULATIONS 2009

GUIDANCE AND CHECKLIST FOR CONSTRUCTION PROFESSIONALS

Introduction

The Provision of Services Regulations 2009 (the “Regulations”) came into force on 28 December 2009 and require the majority of private sector businesses providing services in the UK to make information available to clients and to deal with client complaints promptly. They also prohibit discrimination against individual clients in the provision of services on the basis of place of residence.

Scope of the Regulations

The Regulations apply to services that can be classed as (a) business services, (b) services provided to both business and to consumers and (c) consumer services. The Department for Business Innovation & Skills’ guidance states that the services provided by engineers, architects and surveyors fall within the scope of the Regulations.

Information requirements

Mandatory information to be made available

If the services you provide to clients fall within the scope of the Regulations, you must make the following information available at the outset of the contract:

- Name of your business.
- Legal status and form (for example, whether you are a limited liability partnership or limited company).
- Geographic address at which you are established.
- Contact details for rapid and direct communication and, if you can be contacted by electronic means, the relevant details (for example an e-mail address or a number for text messages).
- Contact details for making complaints and for information requests, including a postal, fax or e-mail address, telephone number and your registered office (if different from your postal address).
- Price of services, where a price is pre-determined by your business.
- Main features of service, if not already apparent from the context.
- VAT number, if registered for VAT.
- If applicable, your trade registration scheme and your registration number.
- If applicable, UK or EEA authorisation scheme details and the relevant regulatory body, the www.businesslink.gov.uk website (the point of single contact in the UK) or the point of single contact in the other EEA state.

- If applicable, your professional body's name, your professional title and the EEA state in which the title was granted.
- General terms and conditions, if any, that you use.
- The existence of contractual terms, if any, that you use concerning the competent courts (for example, that the English courts have jurisdiction) or the law applicable to the contract (for example, that it is governed by English law).
- If applicable, any after-sales guarantee which provides more protection than that required by law.
- If you are required to hold professional indemnity insurance (for example, the RIBA's Code of Professional Conduct requires architects to maintain "*appropriate insurance cover*" and the Architects Registration Board requires all practising registered persons to be covered by a professional indemnity insurance policy), information about your cover and, in particular, the contact details of the insurer and the territorial coverage. You do not have to provide full details of the insurance held (but you should bear in mind that the Consumer Protection Regulations might require such policies to be made available to recipients).
- If you are subject to a code of conduct, trade association or professional body that has non-judicial dispute resolution procedures, details of this and how to access information about it.

Information document with a detailed description of your services

If you provide your clients with an information document with a detailed description of your services, you must include in it the following information:

- If you carry on other activities that are directly linked to the service in question, details of this and the measures taken to avoid conflicts of interest.
- If you are subject to a code of conduct, trade association or professional body that has non-judicial dispute resolution procedures, details of this and how to access information about it.

Information to be provided if requested

You must supply the following information if asked (though you may choose to make this information available in all cases if you prefer):

- If you do not have pre-determined prices, the method for calculating the price (or a sufficiently detailed estimate).
- If you are carrying out a regulated profession (for example, architects), reference to the professional rules applicable in the EEA state in which you are established and how to access these rules.
- If you carry on other activities which are directly linked to the service in question, details of this and the measures taken to avoid conflicts of interest. That information should be included in any information document in which you give a detailed description of your services.

- Any codes of conduct to which you are subject and the websites from which these codes are available, specifying the language version available (for example, CIBSE's Code of Conduct is available at www.cibse.org). □

How to make information available

You can make information available to a client using any one of four methods:

- You provide the clients with such information on your own initiative.
- Make it easily available to the client at the place where you provide the service, or where the contract for the service is concluded, for example, at your premises.
- Make it is easily available to the client electronically (for example, by providing the exact address of where the information can be found on your website).
- Include it in any information documents you supply to the client, which set out a detailed description of the service you provide.

What you must do if you receive a complaint

If you receive a complaint, you must take the following steps:

- Provide contact details of where clients can make a complaint.
- Respond to complaints as quickly as possible. As the nature of complaints and circumstances vary so much, the Regulations do not define this further or set a time limit, but factors to consider include:
 - The means and ease by which the client can be contacted;
 - The nature and complexity of a specific case;
 - The availability of the complainant;
 - Whether information is needed from a third party; and
 - Language issues.
- You must also make your best efforts to find a satisfactory solution to complaints. However, you are not expected to do so in the case of vexatious complaints, which may include a complaint that is clearly unsubstantiated or malicious. You should not use this provision to avoid replying to complaints that are merely annoying or inconvenient.
- If you have already responded to and done your best to resolve a complaint that is made repeatedly, you do not need to take further action. However, you do need to have made your best efforts to resolve the complaint in a way in which a recipient could reasonable be expected to be satisfied.

Contact Us

If you have any queries regarding the Regulations and how they apply to your business, please contact James Hutchinson at j.hutchinson@beale-law.com or on 020 7240 3474.

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