

SCREENING FLOWCHART FOR AUTHORISATION SCHEMES THAT ARE IMPOSED ON SERVICE PROVIDERS ESTABLISHED IN ANOTHER MEMBER STATE WHO WANT TO ESTABLISH IN THE UK

Is the authorisation scheme (licence regime, certification, registration process etc), together with its parent Act, on the **'list of formalities within scope of the Services Directive'** (<http://tinyurl.com/c6hrwr>)?

YES
 eg **Yes** - premises licence (example 1) / riding establishment licence (example 2)
 Is the parent Act on the **'primary legislation checklist'** (<http://tinyurl.com/psh3qd>) as 'in scope and changes are needed'?

NO
 eg **No** - private hire licence (example 3) / an authorisation scheme derived from a Local Authority bylaw or county Act (example 4)
 Is the parent Act on the **'primary legislation checklist'** (<http://tinyurl.com/psh3qd>) as either 'not in scope', 'repealed', 'devolved' or 'still under consideration by a Government Department'?

YES
 eg Licensing Act 2003 (example 1)
 This means that HMG's view is either that the authorisation scheme is not justified and that changes are needed or that the authorisation scheme is justified but some of its procedures need to be changed
 Please see **'Action for Local Authorities'** in the accompanying text

NO
 eg Riding Establishments Act 1964 (example 2)
 The Act is in scope of the Directive with a report being prepared for the Commission. This means that HMG considers that the provisions governing the authorisation scheme are justified and will be kept
No further action

YES
 eg Private Hire Vehicles (London) Act 1998 is not in scope (example 3)
No further action

NO
 eg Local Authority bylaw or county Act (example 4)
Please answer the following questions

(a)
 Does the authorisation scheme comply with regulations 14.1-14.3, in particular is it non-discriminatory and proportionate, and can it be justified by an overriding reason relating to the public interest? (see example 5)

(b)
 Does the authorisation scheme comply with regulations 15.1-15.7, for example is it based on criteria that prevent power being exercised in an arbitrary manner?

(c)
 Does the authorisation scheme comply with regulations 16.1-16.4, for example is it indefinite in duration unless there are good reasons otherwise?

(d)
 If the number of authorisations is limited due to a shortage of natural resources or technical capacity, then does the authorisation scheme comply with regulations 17.1-17.4, e.g., is there a fair selection procedure?

(e)
 Does the authorisation scheme comply with regulations 18.1-20, for example in relation to clarity, time limits, tacit consent and charges?

YES
 Go to **A**

NO
 Go to **B**

YES
 No further action

NO
 Go to **C**

YES
 No further action

NO
 Go to **C**

YES
 No further action

NO
 Go to **C**

YES
 No further action

NO
 Go to **C**

A
 Please complete a reporting form setting out the reasons why you believe this is the case.

B
 The authorisation scheme will need to comply with the Directive. Please complete a reporting form outlining the steps that you plan to take to comply with the Directive.

C
 Please take steps to ensure that you comply with the Directive.