



An Roinn Post, Fiontar agus Nuálaíochta  
Department of Jobs, Enterprise and Innovation

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Oifig an Árd Rúnaí  
Office of the Secretary General

29 March 2017

Legal Partnership Public Consultation  
Legal Services Regulatory Authority  
St. Stephen's Green House  
Earlsfort Terrace  
Dublin D02PH42

**Re: Department of Jobs, Enterprise and Innovation's Response to the Public  
Consultation Notice - Legal Services Regulatory Authority  
Section 118 Legal Services (Regulation) Act 2015 - Legal Partnerships**

The Department of Jobs, Enterprise and Innovation welcomes the proposal in relation to Legal Partnerships.

The Department suggests that there may be some similarities in terms of the oversight of statutory auditors and audit firms. This framework comprises The Irish Auditing and Accounting Supervisory Authority (IAASA) and the recognised accountancy bodies. If the LSRA would find it helpful the Department would be happy to discuss the framework of oversight of statutory auditors and audit firms with them in more detail in the context of their consideration of the matter.

In addition the Department would also like to bring to your attention the following in relation to the Services Directive:

The Department has overarching responsibility for the implementation of Directive 2006/123/EC on services in the internal market ("the Services Directive") in Ireland. The Services Directive was implemented in Ireland by the European Union (Provision of Services) Regulations 2010 – S.I. No. 533 of 2010.

The objective of the Services Directive is to realise the full potential of services markets in Europe by removing legal and administrative barriers to trade. The Directive seeks to enable businesses to benefit from easier establishment, easier provision of cross-border services, and simplified procedures and formalities. In addition, it seeks to enable recipients of services to benefit from strengthened rights, higher quality of services, and enhanced information and transparency on service providers. The simplification measures introduced by the Directive aim to increase transparency and to make it easier for businesses and consumers to provide or use services across the Single Market.

In broad terms the Directive includes the requirement that regulations and administrative processes that apply to service providers and are unnecessary, disproportionate or discriminatory are removed or amended.

In the context of the current consideration regarding the Regulation, Monitoring and Operation of Legal Partnerships, the Department would suggest that, at a general level, whatever structure is being proposed for Legal Partnerships should contemplate and facilitate the use of this structure by appropriately qualified practitioners from other Member States.

In particular, it may be helpful to be aware of the requirements of the following articles of the Services Directive;

**Articles 9 (authorisation schemes)**

Member States shall not make access to a service activity subject to authorisation schemes unless certain conditions are satisfied (authorisation schemes may be maintained only if they are non-discriminatory, justified by an overriding reason relating to the public interest and proportionate).

**Articles 14 and 15 (requirements to be evaluated)**

Article 14 concerns types of proposed requirements which a Member State is not permitted to enforce. Article 15 sets out certain proposed requirements which a Member State can enforce, provided they can be justified. Examples of requirements that can be justified include;

- an obligation on a provider to take a specific legal form
- a ban on having more than one establishment in the same Member State
- an obligation on the provider to supply other specific services jointly with his service

Under Article 15 (7) Member States shall notify the Commission of any new requirements and the reasons for those requirements.

**Article 16 (freedom to provide services)**

Member States must not place restrictions on cross border services by imposing certain requirements. Where Member States consider that such requirements are justified the Commission should be notified under Article 39(5).

**Article 24 (commercial communication by the regulated professions)**

Member States shall remove all total prohibitions on commercial communications by the regulated professions.

**Article 25 (multidisciplinary activities)**

Member States shall ensure that providers of multidisciplinary activities are not made subject to certain requirements (requirements restricting the exercise of different activities jointly or in partnership where such restrictions are unjustified).

Further, it may also be helpful to be aware of proposals by the European Commission in relation to the regulation and cross-border provision of services, which were announced in January of this year. This Department has already undertaken a consultation exercise with relevant Government Departments, including the Department of Justice and Equality, in relation to these proposals (by letter to your Secretary General dated 9 February 2017, and acknowledged by the Private Secretary to your Secretary General by letter dated 10 February 2017).

These proposals include COM (2016) 821, which refers to a revised notification procedure under the Services Directive. A number of important changes have been proposed in this proposal, as follows:

- Member States shall be required to notify of draft measures at least three months prior to their adoption, with an additional option for the Commission to extend the period for a further three months should the Commission or another Member State raise a significant issue.
- Member States shall now be required to notify of any regulatory measures, including authorisation, insurance and multi-disciplinary requirements.
- The notification will be available to the public.
- Information on justification and proportionality of any new measures being proposed.

The package of proposals also include COM (2016) 832 and COM (2016) 824, which relate to the introduction of a European Services e-Card. The European Services e-Card is intended to be a fully electronic procedure which will make it easier for providers of business services, including legal services, to complete administrative procedures required to provide their services in other Member States.

Yours sincerely



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Dr Orlaigh Quinn  
Secretary General