



Extract from Agreement between EU and UK 24th December 2020.

**Chapter 4: Entry and temporary stay of natural persons for business purposes Article
SERVIN.4.1: Scope and definitions**

1. This Chapter applies to measures of a Party affecting the performance of economic activities through the entry and temporary stay in its territory of natural persons of the other Party, who are business visitors for establishment purposes, contractual service suppliers, independent professionals, intra-corporate transferees and short-term business visitors.
2. To the extent that commitments are not undertaken in this Chapter, all requirements provided for in the law of a Party regarding the entry and temporary stay of natural persons shall continue to apply, including laws and regulations concerning the period of stay.
3. Notwithstanding the provisions of this Chapter, all requirements provided for in the law of a Party regarding work and social security measures shall continue to apply, including laws and regulations concerning minimum wages and collective wage agreements.
4. Commitments on the entry and temporary stay of natural persons for business purposes do not apply in cases where the intent or effect of the entry and temporary stay is to interfere with or otherwise affect the outcome of any labour or management dispute or negotiation, or the employment of any natural person who is involved in that dispute.
5. For the purposes of this Chapter:
 - (a) "business visitors for establishment purposes" means natural persons working in a senior position within a legal person of a Party, who:
 - (i) are responsible for setting up an enterprise of such legal person in the territory of the other Party;
 - (ii) do not offer or provide services or engage in any economic activity other than that which is required for the purposes of the establishment of that enterprise; and
 - (iii) do not receive remuneration from a source located within the other Party;
 - (b) "contractual service suppliers" means natural persons employed by a legal person of a Party (other than through an agency for placement and supply services of personnel), which is not established in the territory of the other Party and has concluded a bona fide contract, not exceeding 12 months, to supply services to a final consumer in the other Party requiring the temporary presence of its employees who:
 - (i) have offered the same type of services as employees of the legal person for a period of not less than one year immediately preceding the date of their application for entry and temporary stay;

(ii) possess, on that date, at least three years professional experience, obtained after having reached the age of majority, in the sector of activity that is the object of the contract, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party ⁽¹⁴⁾ ; and

(iii) do not receive remuneration from a source located within the other Party;

(c) "independent professionals" means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who:

(i) have not established in the territory of the other Party;

(ii) have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) for a period not exceeding 12 months to supply services to a final consumer in the other Party, requiring their presence on a temporary basis; and

(iii) possess, on the date of their application for entry and temporary stay, at least six years professional experience in the relevant activity, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party⁽¹⁵⁾ ;

(d) "intra-corporate transferees" means natural persons, who:

(i) have been employed by a legal person of a Party, or have been partners in it, for a period, immediately preceding the date of the intra-corporate transfer, of not less than one year in the case of managers and specialists and of not less than six months in the case of trainee employees;

(ii) at the time of application reside outside the territory of the other Party;

(iii) are temporarily transferred to an enterprise of the legal person in the territory of the other Party which is a member of the same group as the originating legal person, including its representative office, subsidiary, branch or head company ⁽¹⁶⁾ ; and

(iv) belong to one of the following categories: (A) managers ⁽¹⁷⁾ ; (B) specialists; or (C) trainee employees;

(14) Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

(15) Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.)

(16) Managers and specialists may be required to demonstrate they possess the professional qualifications and experience needed in the legal person to which they are transferred.

(17) While managers do not directly perform tasks concerning the actual supply of the services, this does not prevent them, in the course of executing their duties as described above, from performing such tasks as may be necessary for the provision of the services.

(e) "manager" means a natural person working in a senior position, who primarily directs the management of the enterprise in the other Party, receiving general supervision or direction principally from the board of directors or from shareholders of the business or their equivalent and whose responsibilities include:

(i) directing the enterprise or a department or subdivision thereof;

(ii) supervising and controlling the work of other supervisory, professional or managerial employees; and

(iii) having the authority to recommend hiring, dismissing or other personnel-related actions;

(f) "specialist" means a natural person possessing specialised knowledge, essential to the enterprise's areas of activity, techniques or management, which is to be assessed taking into account not only knowledge specific to the enterprise, but also whether the person has a high level of qualification, including adequate professional experience of a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession; and

(g) "trainee employee" means a natural person possessing a university degree who is temporarily transferred for career development purposes or to obtain training in business techniques or methods and is paid during the period of the transfer. ⁽¹⁸⁾

6. The service contract referred to under points (b) and (c) of paragraph 5 shall comply with the requirements of the law of the Party where the contract is executed.

(18) The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For AT, CZ, DE, FR, ES, HU and LT, training must be linked to the university degree which has been obtained.

Article SERVIN.4.2: Intra-corporate transferees and business visitors for establishment purposes.

1. Subject to the relevant conditions and qualifications specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees, and short-term business visitors]:

(a) each Party shall allow:

(i) the entry and temporary stay of intra-corporate transferees;

(ii) the entry and temporary stay of business visitors for establishment purposes without requiring a work permit or other prior approval procedure of similar intent; and

(iii) the employment in its territory of intra-corporate transferees of the other Party;

(b) a Party shall not maintain or adopt limitations in the form of numerical quotas or economic needs tests regarding the total number of natural persons that, in a specific sector, are allowed entry as business visitors for establishment purposes or that an investor of the other Party may employ as intra-corporate transferees, either on the basis of a territorial subdivision or on the basis of its entire territory; and

(c) each Party shall accord to intra-corporate transferees and business visitors for establishment purposes of the other Party, during their temporary stay in its territory, treatment no less favourable than that it accords, in like situations, to its own natural persons.

2. The permissible length of stay shall be for a period of up to three years for managers and specialists, up to one year for trainee employees and up to 90 days within any six-month period for business visitors for establishment purposes.

Article SERVIN.4.3: Short-term business visitors

1. Subject to the relevant conditions and qualifications specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], each Party shall allow the entry and temporary stay of short-term business visitors of the other Party for the purposes of carrying out the activities listed in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], subject to the following conditions:

(a) the short-term business visitors are not engaged in selling their goods or supplying services to the general public;

(b) the short-term business visitors do not, on their own behalf, receive remuneration from within the Party where they are staying temporarily; and

(c) the short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between a legal person that has not established in the territory of the Party where they are staying temporarily, and a consumer there, except as provided for in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors].

2. Unless otherwise specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], a Party shall allow entry of short-term business visitors without the requirement of a work permit, economic needs test or other prior approval procedures of similar intent.

3. If short-term business visitors of a Party are engaged in the supply of a service to a consumer in the territory of the Party where they are staying temporarily in accordance with Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], that Party shall accord to them, with regard to the supply of that service, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

4. The permissible length of stay shall be for a period of up to 90 days in any six-month period.

Article SERVIN.4.4: Contractual service suppliers and independent professionals

1. In the sectors, subsectors and activities specified in Annex SERVIN-4 [Contractual service suppliers and independent professionals] and subject to the relevant conditions and qualifications specified therein:

(a) a Party shall allow the entry and temporary stay of contractual service suppliers and independent professionals in its territory;

(b) a Party shall not adopt or maintain limitations on the total number of contractual service suppliers and independent professionals of the other Party allowed entry and temporary stay, in the form of numerical quotas or an economic needs test; and

(c) each Party shall accord to contractual service suppliers and independent professionals of the other Party, with regard to the supply of their services in its territory, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

2. Access accorded under this Article relates only to the service which is the subject of the contract and does not confer entitlement to use the professional title of the Party where the service is provided.

3. The number of persons covered by the service contract shall not be greater than necessary to fulfil the contract, as it may be required by the law of the Party where the service is supplied.

4. The permissible length of stay shall be for a cumulative period of 12 months, or for the duration of the contract, whichever is less.

Article SERVIN.4.5: Non-conforming measures

To the extent that the relevant measure affects the temporary stay of natural persons for business purposes, points (b) and (c) of Article SERVIN.4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], Article SERVIN.4.3(3) [Short-term business visitors] and points (b) and (c) of Article SERVIN.4.4(1) [Contractual service suppliers and independent professionals] do not apply to:

- (a) any existing non-conforming measure of a Party at the level of:
 - (i) for the Union:
 - (A) the Union, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];
 - (B) the central government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];
 - (C) a regional government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures]; or
 - (D) a local government, other than that referred to in point (C); and
 - (ii) for the United Kingdom:
 - (A) the central government, as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures];
 - (B) a [regional subdivision], as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures]; or
 - (C) a local government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in point (a);
- (c) a modification of any non-conforming measure referred to in points (a) and (b) of this Article to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with points (b) and (c) of Article SERVIN.4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], Article SERVIN.4.3(3) [Short-term business visitors] and points (b) and (c) of Article SERVIN.4.4(1) [Contractual service suppliers and independent professionals]; or
- (d) any measure of a Party consistent with a condition or qualification specified in Annex SERVIN-2 [Future measures].

Article SERVIN.4.6: Transparency

1. Each Party shall make publicly available information on relevant measures that pertain to the entry and temporary stay of natural persons of the other Party, referred to in Article SERVIN.4.1(1) [Scope and definitions].
2. The information referred to in paragraph 1 shall, to the extent possible, include the following information relevant to the entry and temporary stay of natural persons:
 - (a) categories of visa, permits or any similar type of authorisation regarding the entry and temporary stay;
 - (b) documentation required and conditions to be met;
 - (c) method of filing an application and options on where to file, such as consular offices or online;
 - (d) application fees and an indicative timeframe of the processing of an application;
 - (e) the maximum length of stay under each type of authorisation described in point (a);
 - (f) conditions for any available extension or renewal;
 - (g) rules regarding accompanying dependants
 - (h) available review or appeal procedures; and
 - (i) relevant laws of general application pertaining to the entry and temporary stay of natural persons for business purposes.
3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly inform the other Party of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, temporary stay in and, where applicable, permission to work in the former Party.

Chapter 5: Regulatory framework Section

1: Domestic regulation Article SERVIN.5.1: Scope and definitions

1. This Section applies to measures by the Parties relating to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards that affect:

- (a) cross-border trade in services;
- (b) establishment or operation; or
- (c) the supply of a service through the presence of a natural person of a Party in the territory of the other Party as set out in Article SERVIN.4.1 [Scope and definitions].

As far as measures relating to technical standards are concerned, this Section only applies to measures that affect trade in services. For the purposes of this Section, the term ‘technical standards’ does not include regulatory or implementing technical standards for financial services.

2. This Section does not apply to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards pursuant to a measure:

- (a) that does not conform with Article SERVIN.2.2 [Market access] or 2.3 [National treatment] and is referred to in points (a) to (c) of Article SERVIN.2.7(1) [Non-conforming measures and exceptions] or with Article SERVIN.3.2 [Market access], Article SERVIN.3.3 [Local presence] or Article SERVIN.3.4 [National treatment] and is referred to in points (a) to (c) of Article SERVIN.3.6(1) [Non-conforming measures] or with points (b) and (c) of Article SERVIN 4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], or Article SERVIN 4.3(3) [Short-term business visitors]] or with points (b) and (c) of Article SERVIN 4.4(1) [Contractual service suppliers and independent professionals] and is referred to in Article SERVIN 4.5(1) [Non-conforming measures]; or
- (b) referred to in Article SERVIN.2.7(2) [Non-conforming measures and exceptions] or Article SERVIN.3.6(2) [Non-conforming measures].

3. For the purposes of this Section:

- (a) "authorisation" means the permission to carry out any of the activities referred to in points (a) to (c) of paragraph 1 resulting from a procedure a natural or legal person must adhere to in order to demonstrate compliance with licensing requirements, qualification requirements, technical standards or formalities for the purposes of obtaining, maintaining or renewing that permission; and
- (b) "competent authority" means a central, regional or local government or authority or nongovernmental body in the exercise of powers delegated by central, regional or local governments or authorities, which is entitled to take a decision concerning the authorisation referred to in point (a).

Article SERVIN.5.2: Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

Article SERVIN.5.3: Application timeframes

If a Party requires authorisation, it shall ensure that its competent authorities, to the extent practicable, permit the submission of an application at any time throughout the year. If a specific time period for applying for authorisation exists, the Party shall ensure that the competent authorities allow a reasonable period of time for the submission of an application.

Article SERVIN.5.4: Electronic applications and acceptance of copies

If a Party requires authorisation, it shall ensure that its competent authorities:

- (a) to the extent possible provide for applications to be completed by electronic means, including from within the territory of the other Party; and
- (b) accept copies of documents, that are authenticated in accordance with the Party's domestic law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.

Article SERVIN.5.5: Processing of applications 1.

If a Party requires authorisation, it shall ensure that its competent authorities:

- (a) process applications throughout the year. Where that is not possible, this information should be made public in advance, to the extent feasible;
- (b) to the extent practicable, provide an indicative timeframe for the processing of an application. That timeframe shall be reasonable to the extent practicable;
- (c) at the request of the applicant, provide without undue delay information concerning the status of the application;
- (d) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's domestic laws and regulations;
- (e) if they consider an application complete for the purposes of processing under the Party's domestic laws and regulations, ⁽¹⁹⁾ within a reasonable period of time after the submission of the application ensure that:
 - (i) the processing of the application is completed; and
 - (ii) the applicant is informed of the decision concerning the application, to the extent possible, in writing; ⁽²⁰⁾

(f) if they consider an application incomplete for the purposes of processing under the Party's domestic laws and regulations, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity to provide the additional information that is required to complete the application;⁽²¹⁾ however, if none of the above is practicable, and the application is rejected due to incompleteness, competent authorities shall ensure that they inform the applicant within a reasonable period of time; and

(g) if an application is rejected, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection and of the timeframe for an appeal against that decision and, if applicable, the procedures for resubmission of an application; an applicant shall not be prevented from submitting another application solely on the basis of a previously rejected application.

2. The Parties shall ensure that their competent authorities grant an authorisation as soon as it is established, on the basis of an appropriate examination, that the applicant meets the conditions for obtaining it.

3. The Parties shall ensure that, once granted, an authorisation enters into effect without undue delay, subject to the applicable terms and conditions.⁽²²⁾

¹⁹ *Balancing resource constraints against the potential burden on businesses, in cases where it is reasonable to do so, competent authorities may require that all information is submitted in a specified format to consider it "complete for the purposes of processing".*

²⁰ *Competent authorities may meet the requirement set out in point (ii) by informing an applicant in advance in writing, including through a published measure, that a lack of response after a specified period of time from the date of submission of the application indicates acceptance of the application. The reference to "in writing" should be understood as including electronic format.*

²¹ *Such "opportunity" does not require a competent authority to provide extensions of deadlines.*

²² *Competent authorities are not responsible for delays due to reasons outside their competence.*

Article SERVIN.5.6: Fees

1. For all economic activities other than financial services, each Party shall ensure that the authorisation fees charged by its competent authorities are reasonable and transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorisation fees by electronic means.
2. With regard to financial services, each Party shall ensure that its competent authorities, with respect to authorisation fees that they charge, provide applicants with a schedule of fees or information on how fee amounts are determined, and do not use the fees as a means of avoiding the Party's commitments or obligations.
3. Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to universal service provision.

Article SERVIN.5.7: Assessment of qualifications

If a Party requires an examination to assess the qualifications of an applicant for authorisation, it shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. To the extent practicable, each Party shall accept requests in electronic format to take such examinations and shall consider the use of electronic means in other aspects of examination processes.

Article SERVIN.5.8: Publication and information available

1. If a Party requires authorisation, the Party shall promptly publish the information necessary for persons carrying out or seeking to carry out the activities referred to in Article SERVIN.5.1(1) [Scope and definitions] for which the authorisation is required to comply with the requirements, formalities, technical standards and procedures for obtaining, maintaining, amending and renewing such authorisation. Such information shall include, to the extent it exists:

- (a) the licensing and qualification requirements and procedures and formalities;
- (b) contact information of relevant competent authorities;
- (c) authorisation fees;
- (d) applicable technical standards;
- (e) procedures for appeal or review of decisions concerning applications;
- (f) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;
- (g) opportunities for public involvement, such as through hearings or comments; and

(h) indicative timeframes for the processing of an application. For the purposes of this Section, "publish" means to include in an official publication, such as an official journal, or on an official website. Parties shall consolidate electronic publications into a single online portal or otherwise ensure that competent authorities make them easily accessible through alternative electronic means.

2. Each Party shall require each of its competent authorities to respond to any request for information or assistance, to the extent practicable.

Article SERVIN.5.9: Technical standards

Each Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organisations, designated to develop technical standards to do so through open and transparent processes.

Article SERVIN.5.10: Conditions for authorisation

1. Each Party shall ensure that measures relating to authorisation are based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner and may include, inter alia, competence and the ability to supply a service or any other economic activity, including to do so in compliance with a Party's regulatory requirements such as health and environmental requirements. For the avoidance of doubt, the Parties understand that in reaching decisions a competent authority may balance criteria.

2. The criteria referred to in paragraph 1 shall be:

- (a) clear and unambiguous;
- (b) objective and transparent;
- (c) pre-established;
- (d) made public in advance;
- (e) impartial; and
- (f) easily accessible.

3. If a Party adopts or maintains a measure relating to authorisation, it shall ensure that:

- a) the competent authority concerned processes applications, and reaches and administers its decisions objectively and impartially and in a manner independent of the undue influence of any person carrying out the economic activity for which authorisation is required; and
- (b) the procedures themselves do not prevent fulfilment of the requirements.

Article SERVIN.5.11: Limited numbers of licences

If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality, objectivity and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure. In establishing the rules for the selection procedure, a Party may take into account legitimate policy objectives, including considerations of health, safety, the protection of the environment and the preservation of cultural heritage.

Section 2: Provisions of general application

Article SERVIN.5.12: Review procedures for administrative decisions

A Party shall maintain judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected investor or service supplier of the other Party, for the prompt review of, and if justified appropriate remedies for, administrative decisions that affect establishment or operation, cross-border trade in services or the supply of a service through the presence of a natural person of a Party in the territory of the other Party. For the purposes of this Section, "administrative decisions" means a decision or action with a legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision or take such action when that is so required by a Party's law. If such procedures are not independent of the competent authority entrusted with the administrative decision concerned, a Party shall ensure that the procedures in fact provide for an objective and impartial review.

Article SERVIN.5.13: Professional qualifications

1. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary professional qualifications specified in the territory where the activity is performed, for the sector of activity concerned ⁽²³⁾ .

2. The professional bodies or authorities, which are relevant for the sector of activity concerned in their respective territories, may develop and provide joint recommendations on the recognition of professional qualifications to the Partnership Council. Such joint recommendations shall be supported by an evidence-based assessment of:

(a) the economic value of an envisaged arrangement on the recognition of professional qualifications; and

(b) the compatibility of the respective regimes, that is, the extent to which the requirements applied by each Party for the authorisation, licensing, operation and certification are compatible.

3. On receipt of a joint recommendation, the Partnership Council shall review its consistency with this Title within a reasonable period of time. The Partnership Council may, following such review, develop and adopt an arrangement on the conditions for the recognition of professional qualifications by decision as an annex to this Agreement, which shall be considered to form an integral part of this Title. ⁽²⁴⁾

²³ For greater certainty, this Article shall not be construed to prevent the negotiation and conclusion of one or more agreements between the Parties on the recognition of professional qualifications on conditions and requirements different from those provided for in this Article.

²⁴ For greater certainty, such arrangements shall not lead to the automatic recognition of qualifications but shall set, in the mutual interest of both Parties, the conditions for the competent authorities granting recognition.

4. An arrangement referred to under paragraph 3 shall provide for the conditions for recognition of professional qualifications acquired in the Union and professional qualifications acquired in the United Kingdom relating to an activity covered by this Title and Title III [Digital Trade] of Heading One.

5. The Guidelines for arrangements on the recognition of professional qualifications set out in Annex SERVIN-6 [Guidelines for arrangements on the recognition of professional qualifications] shall be taken into account in the development of the joint recommendations referred to in paragraph 2 of this Article and by the Partnership Council when assessing whether to adopt such an Arrangement, as referred to in paragraph 3 of this Article.