



Enterprise Act 2016

2016 CHAPTER 12

PART 2

REGULATORS

Business impact target

14 Extension of target to provisions made by regulators

- (1) Section 22 of the Small Business, Enterprise and Employment Act 2015 (definition of “qualifying regulatory provisions” etc) is amended as follows.
- (2) In subsection (6)(c) (“statutory provision” includes a provision which has effect by virtue of the exercise of a function conferred on a Minister of the Crown by an Act)—
 - (a) after “Minister of the Crown” insert “or a relevant regulator”;
 - (b) after “by”, in the second place, insert “or under”.
- (3) After subsection (8) insert—
 - “(9) In this section a “relevant regulator” means a body or other person specified in regulations made by the Secretary of State.
 - (10) Regulations under subsection (9) are subject to affirmative resolution procedure.”
- (4) Schedule 2 makes amendments consequential on subsections (1) to (3), and related amendments.
- (5) The amendments made by this section and Schedule 2 apply in relation to the whole of the relevant period in which this section comes into force.
- (6) The first regulations made under section 22(9) of the 2015 Act (as inserted by subsection (3)) apply in relation to the whole of the relevant period in which they come into force.

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- (7) If those regulations come into force in a reporting period mentioned in any of section 23(7)(b) to (d) of the 2015 Act then, in respect of past reporting periods—
- (a) section 24A(3) of the 2015 Act (as inserted by paragraph 4 of Schedule 2) does not apply;
 - (b) the required documents (see subsection (2) of that section) must be published no later than two weeks after the end of the reporting period in which the regulations come into force.
- (8) Subsequent regulations made under section 22(9) of the 2015 Act may make provision corresponding to subsections (6) and (7) in respect of the relevant period in which the regulations come into force.
- (9) In this section—
- “relevant period” has the meaning given by section 21(7) of the 2015 Act;
 - “reporting period” has the same meaning as in section 23 of the 2015 Act (see subsection (7) of that section);
 - “the 2015 Act” means the Small Business, Enterprise and Employment Act 2015.

Reporting requirements

15 Duty to report on effect of regulators’ code

After section 23 of the Legislative and Regulatory Reform Act 2006 insert—

“23A Code of practice: performance reports and information requirements

- (1) A relevant regulator must prepare and publish a performance report in respect of each reporting period.
- (2) A performance report is a report about the effect of performance of the duties in section 22 (duties to have regard to code of practice) on the way the relevant regulator exercised its relevant functions.
- (3) A relevant regulator is a person with regulatory functions to which section 22 applies, other than a local authority.
- (4) A performance report must include—
 - (a) the relevant regulator’s assessment—
 - (i) of the views of persons carrying on businesses about the effect mentioned in subsection (2), and
 - (ii) of the impact on such persons of that effect;
 - (b) a description of the effect the relevant regulator expects performance of the duties in section 22 to have on the way it exercises its relevant functions in future.
- (5) In preparing and publishing a performance report a relevant regulator must follow any guidance given from time to time by a Minister of the Crown, unless the regulator considers that there is a good reason not to do so.
- (6) Guidance under subsection (5) may, in particular, include guidance as to—

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- (a) information or other matters to be included in a performance report;
 - (b) information to be obtained for the purposes of a performance report;
 - (c) the means by which information should be obtained for the purposes of a performance report.
- (7) A performance report must be published no later than three months after the end of the reporting period concerned.
- (8) A reporting period is a period of 12 months, except as provided by subsection (13)(b).
- (9) A new reporting period begins immediately after the end of each reporting period.
- (10) A relevant regulator other than the Commission for Equality and Human Rights must give to a Minister of the Crown any information that the Minister may from time to time request which relates to—
- (a) the effect of performance of the duties in section 22 on the way the relevant regulator performs, has performed, or is expected to perform, its relevant functions,
 - (b) the views of persons carrying on businesses about the effect mentioned in paragraph (a) or the impact on such persons of that effect, or
 - (c) any aspect of a performance report in relation to which it appears to the Minister that guidance under subsection (5) has not been followed.
- (11) This section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (12) In this section—
- “local authority” means—
- (a) a county or district council in England;
 - (b) a London borough council;
 - (c) the Common Council of the City of London;
 - (d) the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;
 - (e) the Council of the Isles of Scilly;
 - (f) a port health authority in England;
 - (g) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities for Greater London and metropolitan counties);
 - (h) a county or county borough council in Wales;
 - (i) a fire and rescue authority in Wales;
 - (j) a port health authority in Wales;
 - (k) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;
 - (l) a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;
- “relevant functions” means functions in the exercise of which a relevant regulator is required by section 22 to have regard to the code of practice under subsection (1) of that section.

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- (13) A relevant regulator’s first reporting period—
- (a) begins—
 - (i) on the day on which section 15 of the Enterprise Act 2016 comes into force, or
 - (ii) in the case of a person that becomes a relevant regulator after that day, on the day on which the person becomes a relevant regulator;
 - (b) is of a length determined by the relevant regulator, but is not to exceed 12 months.”

16 Duty to report on effect of economic growth duty

- (1) After section 110 of the Deregulation Act 2015 insert—

“110A Duty under section 108: performance reports and information requirements

- (1) A person with regulatory functions to which section 108 applies (a “regulator”) must prepare and publish a performance report in respect of each reporting period.
- (2) A performance report is a report about the effect of performance of the duty under section 108(1) on the way the regulator exercised its functions to which that section applies (its “relevant functions”).
- (3) A performance report must include—
 - (a) the regulator’s assessment—
 - (i) of the views of persons carrying on businesses about the effect mentioned in subsection (2), and
 - (ii) of the impact on such persons of that effect;
 - (b) a description of the effect the regulator expects performance of the duty under section 108(1) to have on the way it exercises its relevant functions in future.
- (4) In preparing and publishing a performance report a regulator must follow any guidance given from time to time by a Minister of the Crown, unless the regulator considers that there is a good reason not to do so.
- (5) Guidance under subsection (4) may, in particular, include guidance as to—
 - (a) information or other matters to be included in a performance report;
 - (b) information to be obtained for the purposes of a performance report;
 - (c) the means by which information should be obtained for the purposes of a performance report.
- (6) A performance report must be published no later than three months after the end of the reporting period concerned.
- (7) A reporting period is a period of 12 months, except as provided by subsection (12)(b).
- (8) A new reporting period begins immediately after the end of each reporting period.

- (9) A regulator must give to a Minister of the Crown any information that the Minister may from time to time request which relates to—
- (a) the effect of performance of the duty under section 108(1) on the way the regulator performs, has performed, or is expected to perform, its relevant functions,
 - (b) the views of persons carrying on businesses about the effect mentioned in paragraph (a) or the impact on such persons of that effect, or
 - (c) any aspect of a performance report in relation to which it appears to the Minister that guidance under subsection (4) has not been followed.
- (10) A regulator is not required by this section to include in a performance report, or to give to a Minister of the Crown, information about the exercise of functions in relation to a particular person.
- (11) This section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (12) A regulator’s first reporting period—
- (a) begins—
 - (i) on the day on which section 16 of the Enterprise Act 2016 comes into force, or
 - (ii) in the case of a person that becomes a regulator (see subsection (1)) after that day, on the day on which the person becomes a regulator;
 - (b) is of a length determined by the regulator, but is not to exceed 12 months.”
- (2) In section 111 of that Act (interpretation of sections 108 to 110)—
- (a) in the heading and subsection (1) for “110” substitute “110A”, and
 - (b) in subsection (4) for “and 110” substitute “to 110A”.

Application of regulators' principles and code of practice

17 Power of Welsh Ministers to apply regulators’ principles and code of practice

In section 24 of the Legislative and Regulatory Reform Act 2006 (application of regulators’ principles and code of practice to functions specified by order)—

- (a) for paragraph (c) of subsection (3) (Wales: limit on power of Minister of the Crown to specify functions) substitute—
 - “(c) a Welsh regulatory function.”;
- (b) in subsection (4) (power of Welsh Ministers to specify functions) for “regulatory functions exercisable only in or as regards Wales” substitute “Welsh regulatory functions”;
- (c) in subsection (10) (definitions) at the appropriate place insert—
 - ““Welsh regulatory function” means a regulatory function, so far as exercisable in relation to Wales, if or to the extent that the function relates to matters—

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- (a) within the legislative competence of the National Assembly for Wales (see section 108 of the Government of Wales Act 2006),
or
- (b) in respect of which functions are exercisable by the Welsh Ministers.”

18 Removal of restrictions

Omit subsection (5) of section 24 of the Legislative and Regulatory Reform Act 2006 (which prevents the regulators’ principles and code from being applied to regulatory functions of the Gas and Electricity Markets Authority, the Office of Communications, the Office of Rail and Road or the Water Services Regulation Authority).

Secondary legislation: duty to review

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In section 30 of the Small Business, Enterprise and Employment Act 2015 (meaning of “provision for review” in section 28(2)(a) of that Act), in subsection (3)—

- (a) after “must” insert “so far as is reasonable”, and
- (b) omit third “the”.