



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 2

REGULATORY REFORM

Business impact target

21 Duty on Secretary of State to publish business impact target etc

- (1) Before the end of the period of 12 months beginning with the commencement of a Parliament, the Secretary of State must publish—
 - (a) a target for the Government in respect of the economic impact on business activities of qualifying regulatory provisions which come into force or cease to be in force during the relevant period, and
 - (b) an interim target applying at the end of the period of three years beginning with the commencement of the Parliament.
- (2) In this section and sections 24 to 26 the target mentioned in subsection (1)(a) is referred to as the “business impact target”.
- (3) At the same time as publishing a business impact target and an interim target, the Secretary of State must publish—
 - (a) a determination under section 22(2), and
 - (b) a methodology to be used for assessing the economic impact mentioned in subsection (1)(a).
- (4) The Secretary of State must lay each thing published under subsection (1) or (3) before Parliament.
- (5) Subsection (6) applies when the Secretary of State is—
 - (a) determining a business impact target for publication under subsection (1)(a),
or

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Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

- (b) making a determination under section 22(2).
- (6) The Secretary of State must, in particular, have regard to—
 - (a) the effect of regulation on economic growth and competitiveness,
 - (b) the need to minimise any disproportionate impact of regulation on activities carried on by smaller scale businesses or voluntary or community bodies,
 - (c) the aim of delivering efficiency in regulating business activities while keeping the costs to businesses or voluntary or community bodies to a minimum.
- (7) In this section and sections 23 to 26—
 - the “relevant day” means the day after a polling day for a parliamentary general election; and
 - the “relevant period” is the period beginning with the relevant day and ending with the polling day for the next parliamentary general election.
- (8) Subsection (7) is to be read in accordance with the Fixed-term Parliaments Act 2011.
- (9) This section and sections 22 to 27 (the “target provisions”) apply only where the commencement of a Parliament mentioned in subsection (1) above occurs—
 - (a) not more than 12 months before the target provisions come into force, or
 - (b) after the target provisions have come into force.
- (10) Subsection (11) applies if an early parliamentary election is to take place in accordance with section 2 of the Fixed-term Parliaments Act 2011 before the end of the period of 12 months beginning with the commencement of a Parliament.
- (11) Any duty imposed by the target provisions which would apply at any time before the commencement of the next Parliament is to be disregarded.

22 Sections 21 and 23 to 25: “qualifying regulatory provisions” etc

- (1) This section applies for the purposes of sections 21 and 23 to 25.
- (2) “Qualifying regulatory provisions” means regulatory provisions which the Secretary of State determines are to be qualifying regulatory provisions for the purposes of section 21(1)(a).
- (3) A “regulatory provision”, in relation to a business activity, means a statutory provision which—
 - (a) imposes or amends requirements, restrictions or conditions, or sets or amends standards or gives or amends guidance, in relation to the activity, or
 - (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which relate to the activity.
- (4) But a “regulatory provision” does not include a statutory provision if or to the extent that—
 - (a) it makes or amends—
 - (i) provision imposing, abolishing or varying any tax, duty, levy or other charge, or
 - (ii) provision in connection with provision falling within subparagraph (i);
 - (b) it makes or amends provision in connection with procurement;

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

- (c) it makes or amends provision in connection with the giving of grants or other financial assistance by or on behalf of a public authority;
 - (d) it makes or amends provision which is to have effect for a period of less than 12 months.
- (5) Where a statutory provision comes into force or ceases to be in force for some but not all purposes, references to regulatory provisions or qualifying regulatory provisions coming into force or ceasing to be in force are to be read as referring to those provisions in so far as they have come into force or ceased to be in force for those purposes.
- (6) Subject to subsection (7) a “statutory provision” is—
 - (a) a provision of an Act,
 - (b) a provision of subordinate legislation made by a Minister of the Crown, or
 - (c) any other provision which has effect by virtue of the exercise of a function conferred on a Minister of the Crown^[F1] or a relevant regulator^[F2] by^[F2] or under^[F2] an Act.
- (7) A “statutory provision” does not include—
 - (a) a provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (see section 29 of the Scotland Act 1998),
 - (b) a provision which could be included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998), or
 - (c) a provision falling within the legislative competence of the National Assembly for Wales (see section 108 of the Government of Wales Act 2006).
- (8) In this section—
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “public authority” has the same meaning as in the Freedom of Information Act 2000 (see section 3 of that Act); and
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- ^[F3](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.]

Textual Amendments

- F1** Words in s. 22(6)(c) inserted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\)](#), [ss. 14\(2\)\(a\)](#), [44\(1\)\(b\)](#), [\(2\)\(a\)](#)
- F2** Words in s. 22(6)(c) inserted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\)](#), [ss. 14\(2\)\(b\)](#), [44\(1\)\(b\)](#), [\(2\)\(a\)](#)
- F3** S. 22(9)(10) inserted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\)](#), [ss. 14\(3\)](#), [44\(1\)\(b\)](#), [\(2\)\(a\)](#) (with [s. 14\(5\)-\(10\)](#))

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

23 Duty on Secretary of State to publish reports

- (1) The Secretary of State must publish a report in respect of each reporting period during the relevant period.
- (2) The report must assess the economic impact on business activities of the qualifying regulatory provisions which have come into force or ceased to be in force during the reporting period.
- (3) The report must include—
 - (a) a list of all the qualifying regulatory provisions which have come into force or ceased to be in force during the reporting period,
 - (b) an assessment of the economic impact on business activities of each of the qualifying regulatory provisions falling within paragraph (a) made by reference to the methodology published under section 21(3)(b) (but see section 24(2)),
 - (c) an assessment of the aggregate economic impact on business activities of all of the qualifying regulatory provisions falling within paragraph (a),
 - (d) if there have been preceding reporting periods during the relevant period, an assessment of the aggregate economic impact on business activities of all of the qualifying regulatory provisions which have come into force or ceased to be in force during the reporting period in question and all of the preceding reporting periods,
 - (e) an assessment of the contribution of the actions taken by each Government department to the aggregate economic impact mentioned in paragraphs (c) and (d),^{F4}...
 - (f) a list of all the regulatory provisions (as defined in section 22(3)) [^{F5}which—
 - (i) have come into force or ceased to be in force during the reporting period,
 - (ii) fall within section 22(6)(a) or (b), and
 - (iii) do not fall within paragraph (a),]
 - [^{F6}(g) a summary of all the regulatory provisions (as defined in section 22(3)) which—
 - (i) have come into force or ceased to be in force during the reporting period,
 - (ii) fall within section 22(6)(c), and
 - (iii) do not fall within paragraph (a).]
- [^{F7}(3A) The contribution of qualifying regulatory provisions which have come into force or ceased to be in force during preceding reporting periods to the aggregate economic impact mentioned in subsection (3)(d) is to be assessed by reference to the assessments in relation to those provisions included in reports in respect of those periods under subsection (3)(b).]
- (4) The report must describe the actions taken by Government departments to mitigate any disproportionate economic impact on activities carried on by smaller scale businesses or voluntary or community bodies of regulatory provisions (as defined in section 22(3)) which have come into force during the reporting period.
- (5) Subsection (6) applies in respect of regulatory provisions (as defined in section 22(3)) which—
 - (a) have come into force during the reporting period, and

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

- (b) implement an EU obligation or any other international obligation of the United Kingdom.
- (6) The report must include—
 - (a) a description of any provision made in the provisions in question which goes beyond the minimum provision necessary for implementing the obligation, and
 - (b) the reasons for that provision.
- (7) Each of the following is a reporting period—
 - (a) the period beginning with the relevant day and ending at the end of the period of 12 months beginning with the commencement of the Parliament,
 - (b) the next successive period of 12 months,
 - (c) the next successive period of 12 months,
 - (d) the next successive period of 12 months, and
 - (e) the period which begins at the end of the period mentioned in paragraph (d) and ends at the end of the relevant period.
- (8) But subsection (9) applies if an early parliamentary general election is to take place in accordance with section 2 of the Fixed-term Parliaments Act 2011 during a reporting period mentioned in any of subsection (7)(b) to (d) (the “election reporting period”).
- (9) Subsection (7) has effect as if—
 - (a) any provision relating to the election reporting period and any subsequent reporting periods mentioned in paragraph (c) or (d) were omitted, and
 - (b) paragraph (e) referred to the period which begins at the beginning of the election reporting period and ends at the end of the relevant period.
- (10) A report must be published—
 - (a) no later than one month after the end of the reporting period, if the report is in respect of a reporting period mentioned in any of subsection (7)(a) to (d);
 - (b) before the dissolution of Parliament, if the report is in respect of a reporting period mentioned in subsection (7)(e).
- (11) Where a report is in respect of a reporting period mentioned in subsection (7)(e), the references to qualifying regulatory provisions or regulatory provisions which have come into force or ceased to be in force during the reporting period include qualifying regulatory provisions or regulatory provisions which are expected to come into force or to cease to be in force during that reporting period.
- (12) The Secretary of State must lay any report before Parliament.

Textual Amendments

- F4** Word in s. 23(3)(e) omitted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by virtue of [Enterprise Act 2016 \(c. 12\)](#), s. 44(1)(f)(2)(g), [Sch. 2 para. 2\(2\)](#)
- F5** Words in s. 23(3)(f) substituted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(1)(f)(2)(g), [Sch. 2 para. 2\(3\)](#)
- F6** S. 23(3)(g) inserted (4.5.2016 for specified purposes, 4.7.2016 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(1)(f)(2)(g), [Sch. 2 para. 2\(4\)](#)
- F7** [S. 23\(3A\)](#) inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(2)(g), [Sch. 2 para. 3](#)

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

24 Additional matters to be included in reports

- (1) This section makes provision supplementary to section 23.
- (2) An assessment in respect of a qualifying regulatory provision may be included in a report by virtue of section 23(3)(b) only if the assessment is verified by the body appointed under section 25.
- (3) Subsection (4) applies if an assessment in respect of a qualifying regulatory provision is not included in a report in respect of a reporting period mentioned in any of section 23(7)(a) to (d) because of subsection (2) above.
- (4) The report in respect of the immediately following reporting period must include an assessment of the economic impact on business activities of that qualifying regulatory provision.
- (5) Subsection (6) applies to any report in respect of the reporting period mentioned in section 23(7)(c).
- (6) The report must include an assessment of the extent to which the interim target has been met.
- (7) Subsection (8) applies to any report in respect of the reporting period mentioned in section 23(7)(e).
- (8) The report must include an assessment of the extent to which the business impact target has been met.

[^{F8}24A Duty on relevant regulators to assess economic impact etc

- (1) A relevant regulator must publish the required documents in respect of each reporting period during the relevant period.
- (2) The required documents are—
 - (a) a list of all qualifying regulatory provisions which—
 - (i) have effect by virtue of the exercise of a function conferred on the regulator, and
 - (ii) have come into force or ceased to be in force during the reporting period;
 - (b) an assessment verified by the body appointed under section 25 of the economic impact on business activities of each qualifying regulatory provision falling within paragraph (a) made by reference to the methodology published under section 21(3)(b);
 - (c) a summary of all regulatory provisions (as defined in section 22(3)) which—
 - (i) have effect by virtue of the exercise of a function conferred on the regulator,
 - (ii) have come into force or ceased to be in force during the reporting period, and
 - (iii) do not fall within paragraph (a).
- (3) The required documents must be published no later than two weeks after the end of the reporting period, if they are in respect of a reporting period mentioned in any of section 23(7)(a) to (d).

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

- (4) If the required documents are in respect of a reporting period mentioned in section 23(7)(e)—
- (a) they must be published at least two weeks before the dissolution of Parliament;
 - (b) the references to qualifying regulatory provisions or regulatory provisions which have come into force or ceased to be in force during the reporting period include qualifying regulatory provisions or regulatory provisions which are expected to come into force or to cease to be in force during that reporting period.
- (5) A relevant regulator must have regard to any guidance issued from time to time by the Secretary of State in relation to the required documents.
- (6) The guidance may, in particular, include guidance as to—
- (a) information that should be published, or given to the body appointed under section 25, in advance of the publication of a required document;
 - (b) the time when a required document should be published (subject to subsections (3) and (4)(a));
 - (c) the form of a required document or the manner in which it should be published.
- (7) In this section “relevant regulator” has the same meaning as in section 22 (see subsection (9) of that section).]

Textual Amendments

F8 S. 24A inserted (4.7.2016) by Enterprise Act 2016 (c. 12), s. 44(2)(g), Sch. 2 para. 4 (with s. 14(7))

25 Appointment of body to verify assessments and lists in reports

- (1) The Secretary of State must appoint an independent body to verify—
- (a) the assessment to be included in a report by virtue of section 23(3)(b), and
 - (b) that all of the regulatory provisions in a list included in a report by virtue of section 23(3)(f) are regulatory provisions (as defined in section 22(3)) which—
 - (i) have come into force or ceased to be in force during the reporting period in respect of which the report is made, and
 - (ii) do not fall within section 23(3)(a).
- (2) The body appointed under this section must publish a statement recording any verification made by virtue of subsection (1)(b).
- (3) The appointment of the body must be made before the date on which a business impact target is published in relation to the relevant period.
- (4) The appointment of the body must be for the duration of the relevant period.
- (5) “Independent body” means a body which, in the opinion of the Secretary of State, is independent of the Secretary of State.
- (6) The body appointed under this section must have expertise in assessing the likely economic impact of regulation on business activities (including activities carried on by smaller scale businesses or voluntary or community bodies).
- (7) Subsection (1)(b) is to be read in accordance with section 23(11).

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

26 Amending the business impact target etc

- (1) Before the end of the relevant period the Secretary of State may amend one or more of—
 - (a) the business impact target;
 - (b) the interim target;
 - (c) the determination under section 22(2);
 - (d) the methodology to be used for assessing the economic impact mentioned in section 21(1)(a).
- (2) Section 21(6) applies when amending the thing mentioned in subsection (1)(a) or (c).
- (3) If the Secretary of State amends any of the things mentioned in subsection (1) the Secretary of State must—
 - (a) publish the thing as amended,
 - (b) amend any report already published so that it takes account of any amendments, and
 - (c) lay the thing as amended and any amended report before Parliament.
- (4) The requirements in sections 23(2) and (3), 24 and 25(2) apply in relation to an amended report.
- ^{F9}(5) If the Secretary of State amends the thing mentioned in subsection (1)(c) a relevant regulator must—
 - (a) amend anything already published under section 24A or this section so that it takes account of the amendments;
 - (b) make a back-dated assessment in relation to any regulatory provision which—
 - (i) is a qualifying regulatory provision by virtue of the amendments,
 - (ii) has effect by virtue of the exercise of a function conferred on the regulator, and
 - (iii) came into force or ceased to be in force in a past reporting period;
 - (c) publish anything amended and any back-dated assessment.
- (6) A “back-dated assessment” is an assessment of the economic impact on business activities of a regulatory provision mentioned in subsection (5)(b), in respect of the past reporting period in which the provision came into force or ceased to be in force, made by reference to the methodology published under section 21(3)(b).
- (7) If the Secretary of State amends the thing mentioned in subsection (1)(d) a relevant regulator must—
 - (a) amend any assessment or back-dated assessment already published under section 24A or this section so that it takes account of the amendments;
 - (b) publish any amended assessment or back-dated assessment.
- (8) Each back-dated assessment, amended assessment or amended back-dated assessment is to be verified by the body appointed under section 25 before it is published.
- (9) If the Secretary of State amends the thing mentioned in subsection (1)(c) or (d), a relevant regulator must have regard to any guidance issued by the Secretary of State in relation to anything to be published under subsection (5) or (7) (any “updating document”).
- (10) The guidance may, in particular, include guidance as to—

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

- (a) information that should be published, or given to the body appointed under section 25, in advance of the publication of an updating document;
 - (b) the time when an updating document should be published;
 - (c) the form of an updating document or the manner in which it should be published.
- (11) In this section “relevant regulator” has the same meaning as in section 22 (see subsection (9) of that section).]

Textual Amendments

F9 S. 26(5)-(11) inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(2)(g), [Sch. 2 para. 5](#)

27 Sections 21 to 25 etc: interpretation

- (1) This section applies for the purposes of sections 21 to 25 and this section.
- (2) “Business activities” means any activities carried on—
 - (a) by a business for the purposes of the business, or
 - (b) by a voluntary or community body for the purposes of the body.
- (3) References to a business or a voluntary or community body do not include a business or a voluntary or community body which—
 - (a) is controlled by a public authority, or
 - (b) is acting on behalf of a public authority in carrying out the activities.
- (4) The Secretary of State must publish a statement as to how it is to be determined whether a business or a voluntary or community body is controlled by a public authority.
- (5) Each of the following is a “voluntary or community body”—
 - (a) a trade union;
 - (b) an unincorporated body which does not distribute any surplus it makes to its members;
 - (c) a charity;
 - (d) a company limited by guarantee which does not distribute any surplus it makes to its members;
 - (e) a registered society within the meaning given by section 1 of the Co-operative and Community Benefit Societies Act 2014;
 - (f) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.));
 - (g) a community interest company;
 - (h) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011 or within the meaning of the Charities Act (Northern Ireland) 2008 (c. 12 (N.I.));
 - (i) a Scottish charitable incorporated organisation within the meaning of Chapter 7 of Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).
- (6) In this section—

Status: Point in time view as at 04/07/2016.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target. (See end of Document for details)

“public authority” has the same meaning as in the Freedom of Information Act 2000 (see section 3 of that Act); and

“trade union” has the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 or Article 3 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)).

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Point in time view as at 04/07/2016.

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There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Business impact target.