



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 2

#### REGULATORY REFORM

##### *Definitions of small and micro business*

#### **34 Small and micro business regulations: further provision**

- (1) The small and micro business regulations may make provision—
  - (a) about the calculation of the headcount of staff, turnover and balance sheet total of an undertaking, including provision about the period (“assessment period”) in respect of which they are to be calculated;
  - (b) for the headcount of staff, turnover and balance sheet total, or a proportion of such, of any undertaking which satisfies such conditions as may be prescribed in relation to another undertaking (the “principal undertaking”) to be treated as part of the principal undertaking’s headcount of staff, turnover and balance sheet total.
- (2) Conditions which may be prescribed under subsection (1)(b) include, in particular, conditions relating to—
  - (a) the extent of ownership (whether direct or indirect) of one undertaking by one or more other undertakings;
  - (b) the degree of control exercised (whether directly or indirectly) by one or more undertakings over another.
- (3) The small and micro business regulations may make provision about—
  - (a) the assessment period or periods in respect of which an undertaking must meet the small business size conditions or the micro business size conditions in order to be a small business or (as the case may be) micro business;

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**Changes to legislation:** There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Section 34. (See end of Document for details)

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- (b) the circumstances in which an undertaking which has been established for less than a complete assessment period is to be regarded as meeting the small business size conditions or the micro business size conditions.
- (4) Provision made by virtue of subsection (3) may, in particular, provide that—
  - (a) an undertaking is a small business or a micro business if it meets the relevant size conditions in respect of each of its two most recent assessment periods;
  - (b) where there has been only one complete assessment period since an undertaking was established, the undertaking is a small business or a micro business if it meets the relevant size conditions in respect of that period;
  - (c) an undertaking which is a small business or a micro business does not cease to be such unless it fails to meet the relevant size conditions in respect of two consecutive assessment periods.
- (5) The small and micro business regulations may make provision for one undertaking (“undertaking A”) which satisfies such conditions as may be prescribed in relation to another undertaking (“undertaking B”), to be treated as being undertaking B (whether or not undertaking B is still in existence) for such purposes as may be prescribed.
- (6) Conditions which may be prescribed under subsection (5) include, in particular, conditions relating to—
  - (a) the transfer of a business from undertaking B to undertaking A;
  - (b) the carrying on by undertaking A of a business on undertaking B ceasing to carry on the activities, or most of the activities, of which the business consists in consequence of arrangements involving both undertakings;
  - (c) the existence of some other connection between undertaking A and undertaking B.
- (7) The purposes which may be prescribed under subsection (5) include, in particular—
  - (a) determining the date on which undertaking A was established (and so the number of assessment periods there have been since it was established);
  - (b) determining which periods are assessment periods in respect of undertaking A;
  - (c) calculating the headcount of staff, turnover and balance sheet total of undertaking A.
- (8) The small and micro business regulations may provide that an undertaking of such description as may be prescribed is not a small business or a micro business even if it falls within the relevant definition.
- (9) In this section—
  - “micro business size conditions”, “small business size conditions” and “undertaking” have the same meanings as in section 33;
  - “prescribed” means prescribed in the small and micro business regulations.

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#### **Commencement Information**

**II** S. 34 in force at 26.5.2015 by S.I. 2015/1329, reg. 2(d)

**Changes to legislation:**

There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Section 34.