



Enterprise Act 2016

2016 CHAPTER 12

PART 2

REGULATORS

PROSPECTIVE

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;

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- (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—
 - (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;

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- (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.

- (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.

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- (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 ”.

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