



Department for
Business, Energy
& Industrial Strategy

BUSINESS IMPACT TARGET STATUTORY GUIDANCE

January 2019



© Crown copyright 2019

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: enquiries@beis.gov.uk

Contents

Introduction	4
Legal Background	4
The Business Impact Target (BIT)	4
The Regulatory Policy Committee (RPC)	5
The Required Documents	5
QRP List and NQRP Summary	5
BIT Score	6
BIT Assessments	7
RPC opinions	7
Regulatory Framework Group	7
Timing of Regulator' Publications	7
Requirements	7
Glossary of Terms	9

Introduction

1. This guidance is to assist regulators in implementing the provisions of the Small Business, Enterprise and Employment Act 2015 (the “SBEE Act”) as amended by the Enterprise Act 2016 (the “Enterprise Act”). It is aimed at policy-makers, analysts and lawyers in Ministerial and Relevant regulators to enable them to fulfil their duties efficiently and effectively.
2. In this guidance all capitalised terms are explained in the Glossary; “must” indicates a legal obligation; and “should” indicates good practice. For clarity, legal requirements and good practice are set out in separate sub-sections.

Legal Background

3. The Secretary of State has a duty to publish a Business Impact Target (BIT) for each parliament under section 21 of the SBEE Act. The BIT relates to the economic impact on business of qualifying regulatory provisions (“QRPs”) that come into force or cease to be in force during a parliament. This covers amendments to existing regulations. The BIT concerns the regulatory activities of central government departments, Ministerial Regulators carrying out functions on behalf of Ministers, and Relevant Regulators. Regulators who carry out functions in Scotland, Northern Ireland or Wales should note that the BIT does not apply to regulatory provisions in areas that are devolved to the Scottish Parliament, Northern Ireland Assembly or National Assembly for Wales¹.
4. Under section 24A of the SBEE Act, Relevant Regulators are required to publish a list of their QRPs, an assessment of the economic impact on Business of those QRPs and a summary of regulatory provisions that are not QRPs (“NQRPs”). In doing so, Relevant Regulators must have regard to guidance issued by the Secretary of State, including this document.
5. Although section 24A of the SBEE Act does not apply to them, the Government also expects Ministerial Regulators to comply with this guidance, in addition to their legal obligations under the SBEE Act (see paragraphs 13 and 26).
6. In this guidance, the term “Regulators” means Relevant Regulators and Ministerial Regulators.

The Business Impact Target (BIT)

7. The BIT score for each parliament comprises the economic impact² on Business of QRPs that come into force during that parliament. QRPs are defined in the SBEE Act

¹ The BIT cannot include provisions that are: (1) within the legislative competence of the Scottish Parliament or the National Assembly for Wales, or (2) which could be included in an Act of the Northern Ireland Assembly without the consent of the Secretary of State.

² For this parliament, the economic impact has been defined as the equivalent annual net direct impacts on business (see paragraph 15)

by reference to “regulatory provisions”³ and potentially include all changes in a Regulator’s Business-facing activities.

8. Certain activities relating to tax, duties, levies and other charges; procurement; public grants and financial assistance; and temporary measures of less than 12 months are excluded by law from the BIT and cannot be considered regulatory provisions⁴. Additionally, for each parliament the Secretary of State must determine which regulatory provisions qualify for the BIT. This Parliament, all regulatory provisions qualify for the BIT except those that fall into certain exclusion categories that were set out in a written ministerial statement⁵ on 20 June 2018 under powers in the SBEE Act⁶ (“QRP Determination”). More detailed information on the exclusions can be found in the [Better Regulation Framework Guidance](#)⁷.

The Regulatory Policy Committee (RPC)

9. This parliament, the RPC has been appointed as the 'independent verification body' and therefore has the statutory responsibility to verify all BIT Scores. It does this by scrutinising BIT Assessments and opining on whether the analysis that underpins the BIT Score for a particular QRP is considered fit for purpose. As the independent verification body, the RPC is also responsible for verifying that legislative NQRPs with annual business impacts greater than ±£5 million have been correctly classified as NQRPs (see paragraph 15).

The Required Documents

QRP List and NQRP Summary

Requirements

10. Regulators must produce certain “Required Documents” in respect of each BIT Annual Reporting Period. For Relevant Regulators, they must be published by the relevant statutory deadline set out in paragraph 26 (the “Publication Deadline”). The “Required Documents” are:
 - a list of all QRPs (“QRP List”);
 - a figure for each QRP showing its economic impact on Business calculated in accordance with the BIT Methodology (“BIT Score”), each figure having been verified by the Regulatory Policy Committee (“RPC”); and
 - a summary of all NQRPs that have come into force, ceased to be in force or are changed during the BIT Annual Reporting Period (“NQRP Summary”).

³ 22(3) SBEE Act

⁴ See 22(4) SBEE Act and the Better Regulation Framework Guidance for more detail

⁵ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>. See also the Better Regulation Framework Guidance for further guidance about the excluded categories.

⁶ 22(2) SBEE Act

⁷ <https://www.gov.uk/government/publications/better-regulation-framework>

11. The Annual Reporting Periods and Relevant Regulator Publication Deadlines for this parliament are set out in paragraph 26.
12. For Ministerial Regulators, their QRP List and NQRP Summary must be incorporated into the Government's annual report on the BIT.

Good practice

13. Regulators should regularly review their activities and whether planned changes to those activities would be a QRP or a NQRP. If there is uncertainty, the Regulator should contact their sponsoring department's Better Regulation Unit, who may refer the matter to the Better Regulation Executive ("BRE").
14. Regulators should use the NQRP Summary Template published by BRE when completing their Business Impact Target return.

BIT Score

Requirements this parliament

15. For each QRP⁸ Regulators must calculate a BIT Score in line with the BIT Methodology. Regulators must submit this BIT Score to the RPC for verification, but please see paragraphs 26. Regulator QRPs and NQRP summaries must be included in the Government's annual report on the BIT.
16. If the RPC is unable to verify a BIT Score it will issue an "Initial Review Notice" (IRN). Regulators should take into account the comments of the RPC and must submit a revised BIT assessment to the RPC for verification. If this is not fit for purpose, the RPC will issue a formal Red rating and expect a new submission. This process will continue until verification is received, at which point the QRP can be included in the QRP List which must then be sent to BRE and, for Relevant Regulators, published by the Publication Deadline.
17. There is no requirement for Regulators to produce a BIT score for measures that will not qualify for the BIT. For measures that are below the +/-£5 million EANDCB threshold, Regulators should take a proportionate approach to assuring themselves that a measure will not reach the threshold⁹.

Good practice

18. In the interests of good policy-making, the Government strongly recommends that for QRPs Regulators undertake the evidence-gathering process during the proposal development stages, and that a BIT Score is calculated and verification sought from the RPC prior to a final decision on implementation being taken. However, the Government accepts that Regulators may, for a variety of reasons, want to take a different approach.

⁸ Where by definition the Equivalent Annual Net Direct Cost to Business is greater than the ±£5 million threshold. See <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>. See also the Better Regulation Framework Guidance for further guidance about the ±£5 million threshold exclusion.

⁹ For measures that are likely to be close to the £5 million threshold Regulators may wish to produce more detailed figures and estimates to support their assurance process.

BIT Assessments

19. In order to calculate a BIT Score for QRPs where the EANDCB is greater than +/-£5m, Regulators will need to produce analysis in line with the BIT Methodology that sets out the cost-benefit analysis used to calculate the BIT Score (“BIT Assessment”).
20. The Government has provided Regulators with a BIT Assessment template to set out the evidence base underpinning a BIT Score, but other templates are acceptable if these provide sufficient information for the RPC to be able to verify the BIT Score.
21. In producing a BIT Score, Regulators should consider proportionate engagement with Business as this can increase the robustness of the data in the BIT Assessment. Regulators should consider the proportionality of any costs associated with engagement and the expected economic impact on Business of the QRP.
22. Regulators should submit their BIT Assessments to the RPC as soon as possible once the analysis has been conducted and, when approaching the end of a BIT Annual Reporting Period, at least 45 working days prior to the end of that period.

RPC opinions

23. To be able to verify the BIT Score, the RPC will assess the evidence supporting the BIT Score in the BIT Assessment. Only BIT Scores verified by the RPC can be included in QRP Lists and the Government’s aggregate account of BIT Scores.

Regulatory Framework Group

24. Where a specific QRP highlights a systemic issue with the interpretation of the QRP Determination or BIT Methodology (such as unintended consequences or perverse outcomes) the issue may be referred to the Regulatory Framework Group for clarification.

Timing of Regulators’ Publications

Requirements

25. Under section 24A of the SBEE Act (which was inserted by the Enterprise Act 2016), Relevant Regulators must publish all Required Documents no later than two weeks after the end of a BIT Annual Reporting Period and no later than two weeks before the dissolution of Parliament in the last year of a Parliament. The SBEE Act requires that Government must include the content of these documents in its BIT annual report. For Relevant Regulators, these publication deadlines are (assuming that the parliament runs for its full term):

BIT Annual Reporting Period	Publication Deadline
9 June 2017 – 20 June 2018	4 July 2018
21 June 2018 – 20 June 2019	4 July 2019
21 June 2019 – 20 June 2020	4 July 2020
21 June 2020 – 20 June 2021	4 July 2021
21 June 2021 – 5 May 2022	Two weeks before the dissolution of Parliament ¹⁰

26. As explained in paragraph 13, the content of Ministerial Regulators' Required Documents must be incorporated into the Government's annual report on the BIT. The Government must publish its annual report within one month of the end of a BIT Annual Reporting Period (by 20 July during the current parliament) and before the dissolution of Parliament in the last year of a parliament.

¹⁰ Note that due to the deadlines, the final publication must include measures that are expected to come into force, cease to be in force or be changed in the remainder of the reporting period.

GLOSSARY OF TERMS

BIT means the business impact target which relates to the economic impact on Business of QRPs that come into force or cease to be in force during a parliament (this covers amendments to regulations);

BIT Annual Reporting Period means the periods set out in paragraph 26 subject to, in the case of Ministerial Regulators, paragraphs 13;

BIT Assessment means analysis produced by a Regulator following the BIT Methodology which sets out the basis on which the BIT Score has been calculated;

BIT Methodology means the analytical methodology published by the Secretary of State in a written ministerial statement on 20 June 2018¹¹ under the SBEE Act used to calculate the economic impact on Business of QRPs for BIT Assessments;

BIT Score means the final figure resulting from the analysis (following the BIT Methodology) in a BIT Assessment which shows the economic impact on Business of each QRP;

BRE means the Better Regulation Executive, a directorate within the Department for Business, Energy and Industrial Strategy;

Business means business and voluntary or community bodies (including trade unions and charities);

Enterprise Act means the Enterprise Act 2016;

Relevant Regulators means those regulators listed in regulations made by the Secretary of State¹²;

Ministerial Regulators means regulators that operate in the name of a Minister of the Crown and do not have a separate statutory existence including, but not limited to, executive agencies and administratively identifiable regulatory units within government departments;

NQRP Summary means a summary of all NQRPs that have come into force, ceased to be in force or are changed during a BIT Annual Reporting Period;

NQRPs means regulatory provisions that are excluded from the scope of the BIT under the QRP Determination;

Publication Deadline means, for Relevant Regulators, the relevant statutory deadline set out in paragraph 26;

QRP Determination means the Secretary of State's determination of which regulatory provisions qualify for the BIT, set out for this parliament as those which don't fall into certain exemption categories listed in his written ministerial statement¹³ laid before Parliament;

QRP List means a Regulator's list of all of its QRPs;

¹¹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCW5776/>

¹² <http://www.legislation.gov.uk/ukxi/2017/344/schedule/made>

¹³ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-03-03/HCW5574/>

QRPs means qualifying regulatory provisions that come into force cease to be in force during a parliament (this covers amendments to regulations);

Regulators means Relevant Regulators and Ministerial Regulators (although section 24A of the SBEE Act does not apply to them, the Government also expects Ministerial Regulators to comply with this guidance, in addition to their legal obligations under the SBEE Act);

Regulatory Framework Group is a group of officials whose purpose is to consider questions on the interpretation, development and effectiveness of the better regulation framework and to take decisions within agreed principles to ensure that it remains fit for purpose. Its secretariat is in BRE. Issues may be referred to its secretariat by departments, regulators, or the RPC secretariat;

Required Documents means a Regulator's QRP List, validated BIT Scores and NQRP Summary;

RPC means the Regulatory Policy Committee, an independent verification body appointed by the Government to scrutinise assessments of the economic impact on business from changes to regulatory provisions; and

SBEE Act means the Small Business, Enterprise and Employment Act 2015.

This publication is available from: <https://www.gov.uk/government/publications/business-impact-target-statutory-guidance>

If you need a version of this document in a more accessible format, please email enquiries@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.