

Small Firms Impact Test – A Quick Guide

What types of intervention require a Small Firms Impact Test?

Any proposal that **imposes** or **reduces** the cost on business requires a Small Firms Impact Test.

What is the Small Firms Impact Test?

The Small Firms Impact Test (SFIT) process¹ seeks to help you assess the impact of new proposals, including those being negotiated internationally, on small business. The process should be viewed as an integral part of the Impact Assessment (IA) process; in particular the SFIT should help you complete the cost benefit analysis element of the IA that includes:

- Examining whether alternative approaches (including, but not limited to, exemptions, simplified inspections and less frequent reporting) are appropriate for firms with fewer than 20 employees, as part of the Government's new approach to smaller firms;
- Examining whether small businesses (those with fewer than 50 employees) can be given a complete or partial exemption from new rules, as part of the Government's commitment to target new regulation only where it is needed²; and
- Quantifying the annual costs your policy will place on micro, small and medium size businesses.

The SFIT seeks to help you design your policy proposals or response in a way that meets your objectives, without unduly limiting or damaging opportunities for small businesses. The process begins when ideas and

¹ This process is illustrated in the flow diagram .

<http://www.berr.gov.uk/whatwedo/enterprise/enterprisesmes/regulation-and-tax/info-officials/small-firms-ia/page38021.html>

² The Chancellor of the Exchequer announced in his March 2007 Budget that "fuller consideration [would be given] to exemptions, either complete or partial, for small firms where possible" [Budget 2007 Chapter 3 Para 3.62].

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options are first developed, well before the publication of any consultation document, and concludes when the "Final Proposal" is published alongside any legislation or other implementing measure.

The Government announced a new approach to regulating small firms in the 2008 Enterprise Strategy³. Under this approach, policy makers are required to consider whether alternative approaches (e.g. simplified inspection, less frequent reporting, exemptions) are appropriate for firms with fewer than 20 full time employees. Note that this is not a hard and fast limit - Departments are expected to look pragmatically at the sector(s) affected by their measure and make a judgment on a sensible threshold for potential alternative arrangements. Therefore alternative approaches may be considered for firms with, for example, fewer than 5 or 17 employees or more. A more flexible approach should help to deliver better policy outcomes and minimise costs for smaller businesses.

For legislation laid from the beginning of the Parliamentary session 2008/09, policy makers will have to fill in a new section in the Explanatory Memorandum which asks for the information below:

- If and why the legislation applies to small business.
- What consideration has been given to minimise the impact of the requirements on small firms.
- The basis for the final decision on what action to take to assist small businesses and how it was reached.

What are the key stages?

The key stages are:

³ Please see the summary of the Enterprise Strategy:
<http://www.berr.gov.uk/files/file44993.pdf> (p26)

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- **A. Development and Options stage:** An initial sounding of small businesses and their representative bodies to identify/verify the likely impact and solutions before formal public consultation. This is essential for European measures under negotiation as compliance issues for small businesses are often significantly under-estimated.
- **B. Consultation stage:** Where the impact appears to fall more heavily on small businesses, a more detailed exploration of the issues and solutions with representative bodies and small businesses should be undertaken. In addition, separate consideration should be given to:
 - Whether alternative approaches (e.g. flexibilities or exemptions) are appropriate for firms with fewer than 20 employees; and
 - Whether small businesses (those with fewer than 50 employees) can be given a “complete or partial” exemption from the measure, as part of Government’s commitment to target regulation only where it is needed.

This step should take place ahead of the public consultation to ensure the issues are scoped and set out fully in the consultation documents (including the IA).

- **C. Final Proposal stage:** Assessing and reflecting the representations made by small businesses during the consultation in the Final Proposal, including making any necessary changes to ensure that the policy is properly targeted and adapted to the needs of small businesses.

How BIS’s Enterprise Directorate can help

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Consulting small businesses is not an easy task and as a general rule, the smaller the business, the more difficult it is to consult them. A scattergun approach is unlikely to be successful. Running a small business is tough and few are likely to have the time to respond. Many rely on trade associations to represent their views but many more are unlikely to be members of any representative organisations. The SFIT helps you to deal with these issues head on.

The Guidance on the following pages should provide sufficient tools to successfully undertake the SFIT. If you are consulting a sector you already regulate or oversee, the likelihood is that you will have some idea of representative firms or bodies to contact. Enterprise Directorate can however provide further assistance and advice in this area and can help facilitate further consultation with small businesses.

The Government has committed to conduct a Small Firms Impact Test on all measures affecting business and any IA lacking a SFIT will be regarded as deficient. Enterprise Directorate (formerly the Small Business Service) will advise the Secretary of State for Business Enterprise and Regulatory Reform against giving policy clearance to any policy proposal where no adequate SFIT has been conducted. The Government has decided that Enterprise Directorate (formerly the Small Business Service) is expressly entitled to have its assessment of the impact of a proposal on small businesses included in the final IA, before it goes to Ministers for consideration.⁴

The Small Firms Consultation Database

Enterprise Directorate maintains a database of owners and managers of small businesses who have expressed an interest in working with policy officials during the policy development stage. The database allows

⁴ Evaluation of Regulatory Impact Assessments Compendium Report 2004-05 Chapter F page 21 http://www.nao.org.uk/publications/nao_reports/04-05/0405341.pdf

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Enterprise Directorate to contact Micro, Small and Medium sized businesses on behalf of policy officials to gauge the potential impact of proposed regulations.

This free-to-use service can be useful as a point of contact for all stages of the Small Firms Impact Test, for example when recruiting participants for focus groups, test panels and workshops.

Consultations can be tailored in several ways, including targeting specific industrial sectors, geographic regions, and business sizes. You may therefore need to send a short questionnaire to a sample of businesses. If this is the case, the approach will need to be discussed and cleared with your departmental Survey Control Unit.

The normal arrangement is for respondents to send comments direct to the officials leading the work. For further information, contact Andy Harrison, on 020 7215 6032 or email regulation@bis.gsi.gov.uk.