

Guidance on Moratorium on New Domestic Regulation for Micro-Businesses and Start-Ups

Introduction

1. This note has been prepared by the Better Regulation Executive to assist departments in implementing the Government's policy in relation to the moratorium on new domestic regulation for micro-businesses and start-ups announced in the Plan for Growth published on 23 March 2011.

2. New regulation can result in a disproportionate burden on the smallest businesses, and new businesses that are trying to get established. The objective of the moratorium is to support growth by establishing a period of increased regulatory stability for these businesses that minimises these burdens. It will operate alongside other policies including "One-in, One-out" (OIOO) that are intended to limit the flow of new regulatory burdens for businesses and civil society organizations of all sizes, and reduce the overall net burden of domestic regulation.

Scope

3. The moratorium policy applies to all new domestic regulation within the scope of OIOO that affect micro-businesses, and which is intended to come into force before 31 March 2014 (the end of the moratorium period). It also applies to certain categories of domestic regulation that are outside the scope of OIOO, particularly regulations addressing systemic financial risk.

4. The policy applies to both regulatory measures and de-regulatory measures, and measures with a zero net cost for business.

Implementation

5. Departments should consider the impact of any new measures on micro-businesses as part of the small firms impact test in the Impact Assessment. This should be informed by the results of consultation and evidence gathered from businesses and other stakeholders.

6. Where the Impact Assessment demonstrates that a measure will only affect large and medium sized businesses, this should be explained in any letter seeking clearance of the measure through Reducing Regulation sub-Committee (RRC). For measures in this category, no further action needs to be taken in respect of the moratorium. In all other cases the moratorium must be applied.

7. For deregulatory measures ("outs"), departments should examine the transitional costs that may arise for micro-businesses arising from the removal or modification of the regulation. Where these transitional costs are significant, the moratorium should be applied. In other cases, departments should seek a waiver (see paras 9-11 below).

8. For regulatory measures (“Ins” and “Zeros”), departments have a choice as to how the moratorium policy should be implemented in each case. They can either :-
- a. Not proceed with the introduction of the measure – and instead pursue alternative, non-regulatory approaches;
 - b. Delay the date on which the measure comes into force until after the end of the moratorium period on 31 March 2014; or
 - c. Proceed with the measure, but include within it a specific exemption for micro-businesses and start-ups (following the template at Annex)

Waivers

9. If a department wishes to disapply the moratorium policy in respect of a particular measure, it must seek the agreement of both RRC and Economic Affairs Committee to a waiver as part of the normal clearance process.
10. Where a measure is deregulatory, and the department is able to demonstrate that there are no significant transitional costs for micro-businesses, then it is expected that a waiver will be granted.
11. For regulatory measures, applications for a waiver will be considered on a case by case basis. In principle, waivers will only be agreed where departments are able to make a compelling case that the measure is sufficiently urgent to require its implementation in respect of micro-businesses before the end of the agreed moratorium period. In addition, departments seeking a waiver will need to demonstrate that they have taken concrete steps to mitigate the impact on micro-businesses of the measure being introduced, for example by simplification of administrative burdens.

Ending the moratorium where the exemption has been applied

12. Where departments chose to implement the moratorium through the use of the exemption (option (c) above), the exemption in respect of micro-businesses continues until it is brought to an end through an amendment to the relevant legislation. Towards the end of the moratorium period (i.e. late in 2013 or early 2014), departments should consider the effect of the moratorium for each regulation where an exemption has been used, and consider the arguments for and against the exemption continuing beyond the agreed end date for the moratorium of 31 March 2014.
13. If the exemption is operating satisfactorily in respect of an individual regulation and there are no policy reasons to bring it to an end, the assumption is that the exemption will remain in place after the moratorium period has come to an end.
14. If however departments conclude that there are reasons why the exemption should be brought to an end, they will need to seek RRC clearance for doing so (supported by an updated impact assessment). That will enable RRC to manage the risk that micro-business would be subject to a significant number of new regulations soon after the end of the formal moratorium period – for example by agreeing a phased approach to the winding-down of the moratorium across the various regulations affected.

15. Where departments consider that there are strong reasons for specifying the end date for the exemption on the face of the legislation at the point it is introduced, they must seek RRC clearance for doing so. This approach should only be adopted in exceptional circumstances.

Better Regulation Executive
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