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Trádála agus Fostaíochta**
Department of Enterprise,
Trade and Employment

Guidelines and template for application of the SME Test

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Guidelines

Purpose of the SME Test

In developing policy initiatives or measures, it is important that policymakers employ the principle of “Think Small First” and consider how the measure will impact businesses. This entails that full consideration is given to micro, small and medium enterprises, commonly referred to as SMEs at the early policy development stage. These enterprises can be disproportionately impacted by regulatory or administrative burdens if not given due consideration during the formulation of policy.

Following the Government decision of 14th May 2024 (S180/20/10/2534A), any major new measure from Government will be assessed for its impact on small business — through an enhanced SME Test. Any “major new measure” means any Memorandum for Government, whether for Decision or Information. In all cases, they must include a completed SME Test or provide an explanation as to why it is considered that an SME Test is not required.

This document sets out the motivations and principles of the SME Test along with step-by-step guidance on when and how the SME Test should be applied. The SME Test and the “think small first” principle, should be applied as a matter of course to all policy so to consider the impacts on business.

SME Definition

In line with the EU definition (EU recommendation 2003/361)¹. The main factors determining whether an enterprise is an SME are:

1. **staff headcount**
2. either **turnover** or **balance sheet total**

Company category	Staff headcount	Turnover	or Balance sheet total
Medium-sized	< 250	≤ € 50 m	≤ € 43 m
Small	< 50	≤ € 10 m	≤ € 10 m
Micro	< 10	≤ € 2 m	≤ € 2 m

¹ Medium <250 employees, Small < 50 employees, Micro SME <10 employees
As per EU definition of an SME: https://single-market-economy.ec.europa.eu/smes/sme-definition_en

What is the SME Test?

The SME Test is a tool that has been designed to assist policymakers consider the SME perspective when making any new policies, legislation (primary or secondary), or regulatory compliance requirements.

The objective of the SME Test is to ensure the ease of use, understanding and application of regulatory requirements for SMEs. The Test is designed to promote best practice in managing the regulatory burden on the SME sector.

The SME Test helps to identify disproportionate impacts on SMEs and encourages policymakers to propose alternative policy options or mitigating measures to minimise impacts and to ensure that the regulatory environment allows SMEs to operate, grow and scale-up.

Why have the SME Test?

Complying with regulations and reporting can be more difficult for SMEs. Since regulations can bring about fixed costs, these costs can be more difficult to bear for SMEs because of the size of the firm and the resources constraints that they sometimes face (e.g. limited access to finance, information asymmetry, etc.).

In designing either primary or secondary legislation, new policies or regulatory compliance requirements, policymakers not only need to be aware of the impact of the cost on businesses and citizens but also the disproportionate burden they can have on small to medium-sized enterprises and micro businesses.

Costs can both be direct financial costs and indirect compliance costs, e.g. time taken to complete reporting documents, application forms, etc. Larger SMEs tend to have the economies of scale to better absorb new compliance requirements.

What should the SME Test be applied to?

Following the Government decision of 14th May 2024, any major new measure from Government will be assessed for its impact on small business — through an enhanced SME Test.

The initial focus of the SME Test was on primary legislation. However, the enhanced SME Test must be applied to both primary and secondary legislation, new policies, and changes to regulatory compliance requirements that will potentially impact SMEs.

A full list of completed SME Tests is available on the Department of Enterprise, Trade and Employment's website: [Departments that applied the SME Test](#)

In general, taxation measures and the Finance Bill are excluded from the scope of an SME Test. This exemption was introduced to reflect the unique nature of the Finance Bill. It is important however, to make a distinction between regulatory burdens and fiscal burdens on SMEs. Therefore, relevant new guidance documentation, application forms, circulars etc should nonetheless use the principle of “think small first” and where appropriate, the SME Test.

The aim of the changes to the application of the SME Test is to ensure that across Government, the principle of “think small first” is more firmly embedded in the policy making cycle.

When to conduct the SME Test

The SME Test should be applied at the earliest possible stage of the policy development process. When policy problems are being identified and discussed, it is at that point that potential alternative solutions should be considered. The SME Test can also be applied when consultation and impact assessment take place later in the process.

Departments should also encourage the “think small first” principle to agencies or bodies under their remit, to ensure that measures they develop, such as SME reporting requirements, are also screened through the SME Test.

Where a measure is not brought to Government, such as in the case of reporting requirements, the onus will be for line Departments to ensure the SME Test is still completed and is published and reported on through the cross-Departmental network.

Can the SME Test be part of the Regulatory Impact Assessment process?

Yes but it must be a standalone section of the RIA. The SME Test can be completed and published within a wider Regulatory Impact Assessment. It is important that the SME Test template is still completed where this approach is taken and published.

Should the results of the SME Test be published?

Yes, the SME Test should be published on your Department website. Where necessary, the SME Test can be published with redactions. Publishing can be done either within a Regulatory Impact Assessment (RIA), as an Annex to a RIA, or as a separate report.

SME Tests completed by the Department of Enterprise, Trade and Employment are published here: [SME Tests applied by DETE](#)

Conducting the SME Test: 4 steps

There are four steps to a SME Test:

1. Consultation
2. Identification
3. Impact
4. Mitigation

Step 1. Consultation

At the earliest stage in the policy development process, consideration should be given to SMEs.

Policymakers should consider how to commence consultation with SME representative bodies, sectoral groups or relevant agencies.

Consultation can be formal or informal, however you must document the feedback received from stakeholders. A consultation period appropriate for all stakeholders should be set.

Consultation methods could include the following:

- Online public consultation
- Consultation with SME representative bodies
- Notifications of consultation to database of interested stakeholders
- Interviews and panels with experts
- Webinars
- Roundtables
- Physical meetings

As with engagement and consultations with any other type of stakeholders, engagement with SMEs should not end when their insights are gathered. The most important aspect is that these insights are taken into account to inform the assessment process, particularly when assessing the potential impacts, designing mitigating measures and developing the final policy.

The level and formality of consultation may be dependent on the impact the measure is to have on businesses. Informal consultation with a sectoral body at an early stage may be appropriate or help to determine if wider consultation is needed.

Step 2. Identification of affected businesses

The SME Test must consider the different level of regulatory burden that can affect micro business (1-9 employees), small business (10–50) to a medium sized business (50-249). The costs, in terms of time and money, can differ as a micro business is often reliant on the entrepreneur or owner/manager to adhere to the relevant regulations. Larger SMEs tend to have the economies of scale to better absorb new compliance requirements.

In addition, there may be greater impacts on SMEs in particular sectors or geographical regions. Therefore, consideration should be given to the following questions:

- Are all businesses affected?
- Are all sizes of SMEs affected?
- If SMEs are not directly targeted are there potential indirect impacts?
- Is it sector or region specific?
- How many businesses will be required to comply?

Step 3. Measurement of the impact on SMEs

An SME Test should consider all relevant direct and indirect costs, benefits and other impacts that might arise from different policy options, to enable meaningful comparisons. Policymakers should assess how those costs, benefits and other impacts could affect the various groups of SMEs previously identified, and not only SMEs as a sole group.

Given that SMEs are diverse, with many different categories based on size, age, location etc, the same regulation might impact various SMEs in different ways. For instance, a micro company (1-9 employees) could be less equipped to absorb the impact of new policies than a medium-sized company (50-249). Younger firms may not be able to survive high entry or incorporation costs. These differences may be disproportionate, and not justifiable when balanced against the overall benefits of the policy.

Policymakers should be aware that SMEs can be affected not only by regulations that are directed at them, but also by how new policies impact their suppliers and customers, as SMEs often depend to some degree on a limited customer and product base. Policymakers should also consider the potential for cumulative impacts of multiple regulatory changes in proximity across Government.

The benefits of new policies may be offset by various regulatory impacts which may be disproportionately felt by SMEs in comparison with larger companies, including:

- Compliance costs which can take the form of the obligation to pay fees or duties; and costs created by the obligation to adapt the nature of the product/service and/or production/service delivery process to meet economic, social or environmental standards;
- Administrative costs can be created by the obligation to provide information on the activities or products of the company including one-off and recurring administrative costs.

In addition, consideration should be given to the following elements:

- Possible impacts on barriers to entry,
- Competition in the market and market structure, for example in terms of possibilities for SMEs to enter markets;
- Possible impact on innovation.

Step 4. Assessment of alternative options and mitigating measures

If the application of the SME Test shows that SMEs are not disproportionately affected, it is likely that no SME-specific measures or modified policy options are required. The SME Test then shows that the proposed policy change has accounted or does not need to account for SMEs in particular.

If the assessment shows that SMEs are going to be disproportionately affected, mitigating measures, including exemptions or carve outs to the proposed measure should be considered, to ensure the measure is more aligned with the capacity and needs of the SME sector. This does not override where a measure may be being introduced as a public interest measure and it has been deemed that the broader public policy goals outweigh the impact on SMEs. In such cases, this should be clearly demonstrated and explained when bringing the measure forward.

There may be instances where mitigating measures, such as exemptions, are not the optimum solution. For instance, some measures may aim to support SMEs but in practice could act as a barrier to growth, for example some measures may discourage SMEs from growing above a threshold level as exemptions and special regimes expire. Regulatory exemptions may also exclude them from mechanisms that may embed positive aspects, such as changes in behaviours and practices and access to training.

In addition, adopting an exemption regime or mitigating measures for SMEs may also entail costs that will range from how the policy is implemented, to the creation of different groups of compliant parties, to special inspection or licencing regimes, to the set up and implementation of different measures for SMEs. All of these costs should be considered as part of the costs of the proposed regulation when assessing it, and contrasted with the benefits the regulation and measure would create.

SME Test Template

Screening question

Is the new policy, primary or secondary legislation, or regulatory compliance requirement relevant for SMEs²?

The following questions must be answered:

- Are SMEs within the scope of the measure? Yes No
- Does the measure specifically target SMEs? Yes No
- Will or could SMEs be impacted directly or indirectly by the measure? Yes No
- Are SME impacts likely to be more substantial than on other companies, for example, in terms of adverse effects? Yes No

If you said yes to any of the above, complete Sections 1-5.

1. Consultation

1. What consultation will/has taken place to capture input from the SME community, particularly those most impacted by this measure?

- Public consultation
- Online consultation
- Consultation with SME representative bodies
- Notifications of consultation to database of interested stakeholders
- Interviews and panels with experts
- Webinars
- Roundtables
- Public meetings
- Other

If Other, please provide details:

² Medium <250 employees, Small < 50 employees, Micro SME <10 employees

As per EU definition of an SME: https://single-market-economy.ec.europa.eu/smes/sme-definition_en

2. Identification of affected businesses

2a: Please identify the type of SMEs that will be directly or indirectly (i.e. SMEs not in scope, but potentially affected indirectly, for instance through impacts on supply chain) affected by proposed policy change -

Micro (1-9 employees)

Small (10-49 employees)

Medium (50-249) employees

All of the above

2b: Has an estimate been carried out of the numbers of micro, small and medium companies affected directly or indirectly by the measure?

Yes No

2c: Will the proposed policy change have a greater impact on SMEs in any particular economic sector?

Yes No

If Yes, please specify.

2d: Will the proposed policy change have a greater impact on SMEs in any particular region?

Yes No

If Yes, please specify.

3. Assessment of the impacts on SMEs

3a: What are the expected positive impacts of the policy change on SMEs ?

- Improved regulatory framework Yes No
- Improved working conditions Yes No
- Cost savings Yes No

If other, please provide details.

3b: Will the proposed changes result in any of the following impacts for SMEs?

- Administrative costs, including the obligation to provide information on the activities or products of the company, including one-off and recurring administrative costs? Yes No
- Compliance costs, including the obligation to pay fees or duties; and costs created by the obligation to adapt the nature of the product/service and/or production/service delivery process to meet economic, social or environmental standards. Yes No
- Other impacts, including on business entry and exit; competition and competitiveness? Yes No
- Discourage entrepreneurship or innovation? Yes No
- Impacts of any proposed exemption thresholds on business growth? Yes No
- Impacts on SME population composition and location? Yes No
- Additional reporting requirements? Yes No

4. Assessment of alternative options and mitigating measures

4a. If the analysis above has shown that the proposed policy changes will result in negative impacts on SMEs, has there been consideration of any measures to mitigate against these impacts.

Examples of mitigating measures include

- Exemption for certain SME cohorts (e.g. micros);
- Simplification of administrative procedures and use of plain English;
- Reduction of information requirements;
- Less onerous or less frequent inspection regimes for small businesses;
- Provision of longer transitions periods for SMEs so that they can have more time to allocate resources when dealing with policies;
- Lower administrative fees;
- Access to financing or lower interest rates in order to comply;
- Training and assistance with compliance;
- Requirement for SMEs to have only to register for a certain activity rather than having to be fully licensed;
- One-stop shops.

Yes No

Please provide details.

5. Post-completion of SME Test

5a: Have you noted the outcome of the SME Test identifying the impacts and provision for mitigating measures, under the Impacts section of the Memorandum for Government proposing the policy changes?

Yes No

5b: Have you made this form available publicly on your Department website?

Yes No

If not, please give reason why³.

For further information please contact: ESBPU@enterprise.gov.ie

Entrepreneurship and Small Business Unit

Department of Enterprise, Trade and Employment

³ It is expected that all completed Tests will be published. Redactions may be made to sensitive material. Very robust reasons must be provided if not publishing.