

DBERR – NEXT STEPS ON REGULATORY REFORM



The UK is taking forward one of the most ambitious and wide-ranging regulatory reform agendas in the world. Delivering on this is central to our overall economic aims – meeting the challenges of globalisation, improving productivity and promoting innovation – in a modern and fair society. It supports our commitment to increase choice and competition. And it eases the bureaucratic burdens not just on business but also on the public and the third sector.

The Government is committed to continuing to listen to business, consumers and frontline staff, to understand their priorities, and the red tape they find most irritating.

Reforming the way the Department for Business, Enterprise and Regulatory Reform (DBERR) regulates can both improve levels of protection and reduce the burden on business and frontline public sector staff.

DBERR will:

- bring forward targeted simplifications that will improve the effectiveness of specific areas of regulation;
- help business understand regulation; and
- embed transparency and prioritisation into the regulatory system.

TARGETED SIMPLIFICATIONS TO IMPROVE THE EFFECTIVENESS OF REGULATION

Rethinking consumer protection legislation

Markets and technologies are developing at an unprecedented rate and this presents new challenges for the consumer protection regime. The legislative system has to keep pace with these developments and provide consumers with adequate levels of protection.

The Government is committed to delivering a consumer protection regime which is at the level of the best in the world. Its aim is to ensure that consumers get a fair deal, value for money, safe and high-quality products, and greater choice. This is not only good for consumers, it is also good for British business.

The current regulatory landscape for consumer protection has developed over several decades in response to many different stimuli. As a result, the regulations are complex, with over 100 different pieces of legislation which are estimated to result in administrative burdens

of over £1 billion, and are sometimes inconsistent and inflexible.

The Government is therefore launching a review of the consumer protection regime in the UK, to report by spring 2008.

This will:

- examine the scope for simplification of existing legislation and enhancing flexibility and future-proofing while maintaining necessary protections;
- explore avenues to simplify and rationalise enforcement, allowing greater targeting of action on higher-risk sectors or businesses; and
- investigate the options for improving consumer empowerment and redress including pursuing the joint Better Regulation Executive/National Consumer Council work on the efficacy of consumer information as a tool to drive desired consumer outcomes.

Relieving the burden of health and safety risk assessment in small and lower-risk businesses

All businesses face legal requirements to assess the health and safety risks in their workplace. Some regulations outline specific risks they need to consider and assess – for example, from working with computers or chemicals or from lifting and carrying things. A record of the risk assessment must be written and kept under review.

The Health and Safety Executive (HSE) has identified that small firms often struggle to get to grips with what they need to do. Businesses, and even expert advisers, often over-complicate the process by getting bogged down in minutiae or duplication and find it hard to extract material relevant to them from the wealth of guidance HSE publishes.

HSE, working with industry bodies and employee representatives, is helping SMEs respond to the multiple legal requirements they find confusing and burdensome by producing a widely applicable set of concise, practical and sector-specific example risk assessments. These bring together in one document a sensible response to all their health and safety risk assessment requirements. Example assessments must make a significant difference to the burden of risk assessment. On average SMEs spend 14 hours a year on risk assessment requirements. HSE's aim is to reduce this by at least one-third to less than ten hours a year for those businesses who make

use of the example assessments.

HSE is targeting this initiative at the six sectors in the economy that contain 70% of all businesses (retail, wholesale, hotel and catering, transport, motor trade, property and business services). HSE has already published example assessments for an office, a car repair garage, a warehouse and a contract bricklayer.

HSE is launching a single, concise, practical and widely applicable additional set of sector-specific example risk assessments for a convenience store/newsagent, an estate agent and a general office cleaning contractor. These bring together in one document a sensible response to all their health and safety risk assessment requirements. Example assessments for dry cleaning, hairdressing, cold storage warehousing and catering are planned for launch in November 2007.

Health and Safety – improving outcomes, easing the burden on low-risk businesses

Health and safety protections are absolutely paramount to the UK's position as a fair and decent society. Outcomes have improved significantly since 1974 when the Health and Safety at Work Act was introduced, with work fatalities down 76% and serious injuries down 68%. However, businesses, especially SMEs in low-risk sectors – for example, offices, shops and estate agents – have become increasingly concerned by the burden of health and safety regulation. While they understand that protecting the health and safety of their workforce is crucial, they are concerned that some of the paperwork involved is overly complex.

The administrative cost across UK industry of complying with health and safety law is estimated at over £2 billion a year. The Small Business Service found that health and safety was the single biggest issue for the smallest firms, while a recent survey of smaller businesses by the Forum of Private Business found that, on average, they spent 14 hours a month on health and safety issues. Too often the perception in the media and among some stakeholders is that health and safety law is part of the 'nanny state'. True or not, media stories – at both national and regional levels – conveying 'health and safety' as presenting petty bureaucratic barriers to day-to-day activities are creating a climate where health and safety policy is brought into disrepute. This poses a serious threat to the effectiveness of the health and safety regime, the protection of workers and, ultimately, to the UK's position as a developed society. HSE has already launched initiatives like example risk assessments to help ease the regulatory burden on small businesses and low-risk sectors of the economy.

In addition, the Government, with support from HSE, is launching a review to consider, from the perspective of low-risk businesses (especially small firms), what more can be done to deliver strong health and safety outcomes in a modern working environment while minimising the burden on business and maintaining the confidence of society. The review is to report by spring 2008.

Implementing significant measures within the DBERR simplification plan

DBERR's regulation covers a wide area and impacts on every business. It is responsible for company law, employment law, consumer law, competition and energy. In 2006 the then DTI published a well-received simplification plan with a wide range of initiatives to cut burdens – an Employment Law Simplification Review, and a review of Dispute Resolution (the Gibbons Review) in the workplace; implementation of the Unfair Commercial Practices Directive in a way that increases flexibility for business; and the Companies Act – a large-scale consolidation of company law with the 'Think Small First' principle at the forefront.

The 2007 Simplification Plan will build on these:

Employment law: DBERR will bring a Simplification Bill to Parliament, in particular to implement the findings of the Gibbons Review of workplace dispute resolution. And because business says one of the biggest problems is uncertainty and fear around what is really required, DBERR will launch a major campaign to promote clarity and confidence



– featuring improvements in guidance and new tools for employers and employees.

Consumer law: Work on expanding the scope of the Unfair Commercial Practices Directive to increase business freedom is going well. In addition, as set out above, we are launching a review of the consumer protection regime which will report in spring 2008 on the scope for maintaining current levels of consumer protection with less complexity, lower cost and reduced inspection and enforcement.

Company law: Implementation of the Companies Act will continue until the end of 2008. This is a major programme of modernising company law. A review of EU company law is just beginning; DBERR will argue for simplification and expect to make progress in areas like audit requirements for very small businesses, although this may be a long-term project.

HELPING BUSINESS UNDERSTAND REGULATION

Successful regulation depends as much on communication as on how it is designed. Improving understanding of how to comply raises compliance rates and increases protection.

This section sets out how the Government plans to:

- give businesses time to prepare for the implementation of new regulatory requirements; and
- improve communications with businesses affected by regulatory change.

High-quality and timely guidance

Since 2000, it has been Government policy for guidance to be issued a minimum of 12 weeks before the date a regulation comes into effect. However, this deadline is being met in only around one-third of cases. Late guidance means that businesses often do not have time to change their systems to prepare for new regulations. If information on new regulations is not ready early enough, businesses will often pay advisors to fill the information gap.

DBERR will improve the Government's performance in producing good quality and timely guidance for complying with regulation which has an impact on business or the third sector. DBERR will do this by strengthening the government processes around legislation and guidance, including developing a new Code of Practice on good guidance. DBERR will work with those affected to develop the final code. The aim is to ensure that development of high-quality guidance is given greater prominence in policy clearance and is given due weight as part of the regulatory process. If this proves in the future to be ineffective the Government will consider whether a legislative requirement to reinforce the 12-week guidance policy would be sensible.

Better communication of change

The second area where change could be better communicated is around Common Commencement Dates (CCDs). CCDs mean that most regulatory change is now concentrated on two days of the year. This makes it much easier for business to prepare for change. However, improvements are needed to the way information is presented and distributed around the CCD. Analysis, described in the Regulation and Business Advice report, identifies a series of possible improvements to the content of the information presented at CCDs and mechanisms to ensure

many more businesses are able to see this information.

For the Common Commencement Date in October 2007, DBERR will pilot a new approach to information on regulatory change. Working with a range of trade bodies DBERR will substantially increase the number of businesses informed about regulatory changes. DBERR will improve content by producing a summary document highlighting the most important changes and linking to more detailed guidance. In future, DBERR will consider direct postal or email channels as a way of reaching further businesses.

Improving the way changes to regulations are communicated to businesses has the potential to make a significant difference to both the costs they face in paying for advice and the irritation they experience in trying to understand and comply with regulation. Even a 10% reduction in the most conservative estimate of the costs of regulation advice would deliver savings of £144 million annually to business.

HOLDING GOVERNMENT AND REGULATORS TO ACCOUNT

DBERR needs to put systems and processes in place to improve the quality of existing and new regulations.

This section sets out how DBERR plans to:

- work with Parliament so that it plays an even fuller part in scrutinising the Government's performance on regulatory reform; and
- ensure regulators and inspectorates work to minimise burdens and enforce regulation in a risk-based manner.

Working with Parliament

Parliament has played a key role in the Government's regulatory reform agenda. The House of Commons now has a Regulatory Reform Committee with a wide-ranging remit. And the House of Lords has set up a committee which considers the performance of regulators. The Government welcomes these moves, and to build on them, would like to work with key members of both Houses on how Parliament can play an even fuller part in helping the Government deliver this important agenda.

Statutory duty on regulators to address burdens

Regulators have made considerable progress in reviewing the burdens they impose, and many have adopted simplification plans which set out concrete moves which will benefit business. In the main, these moves focus on administrative burdens.

The Government is also consulting on a code of practice (the Compliance Code) which would require regulators to have regard to Hampton principles, and proposals that would require regulators to act in a proportionate, accountable, consistent, transparent and targeted manner.

The draft code of practice already includes a requirement for regulators to ensure that they adopt new regulatory approaches only where the benefits justify the costs and entail the minimum burden compatible with achieving the desired regulatory objectives.

This duty already applies to some regulators. For example the Communications Act 2003 imposes a duty on Ofcom to review its functions to consider whether it is imposing unnecessary burdens and explain how it will ensure it does not impose or maintain unnecessary burdens in carrying out its functions.

The Communications Act 2003 requires Ofcom to:

- consider to what extent it would be appropriate to remove or reduce regulatory burdens;
- publish a statement setting out how it proposes to ensure that its regulation does not continue to impose unnecessary burdens; and to
- have regard to that statement in carrying out its functions.

The Government is attracted to introducing a duty similar to this for all regulators. It will work with regulators to frame a power which would allow such a duty to be introduced through secondary legislation at a future date. However, it is not the Government's intention to amend the



statutory duties of regulators in this manner unless there is reason to believe that it would achieve more than the approach envisaged in the Compliance Code. The Government will undertake a consultation as part of the process of applying the duty.

The benefits from a statutory duty will fall on the regulated community, in particular businesses. When regulations are made or enforced, businesses bear a burden, which manifests itself in various forms, such as the costs of changing their behaviour, or preparing for an inspection. It is important that Government does not divert productive resources away from their day-to-day tasks unnecessarily. To ensure this, minimising the burdens associated with the introduction and enforcement of regulations should help minimise the necessary costs borne by businesses.

Applying the principles of the Regulators' Compliance Code to organisations that regulate public services

The impact of regulation on public sector workers such as teachers, nurses and the police is a key concern for the Government. And with increasing moves to a plurality of providers, some historical public/private differentiation is being rendered redundant. DBERR therefore intends to review the case for applying the principles behind the Compliance Code to those organisations whose primary regulatory functions lie in the public sector (for example Ofsted, Audit Commission, Healthcare Commission) and, where set out in statute, regulatory functions executed by parts of government departments.

If the review were to conclude that applying the principles behind the Code to these organisations made sense, this would offer the public sector front line the same level of protection that will be afforded to business by the Compliance Code, and help improve outcomes in those sectors whose regulators were brought into scope. This would build on the recently announced Public Sector Strategy for better regulation and the Government's work to reduce the number of inspectorates. The initial review will be completed by the end of 2007.

The Government has already undertaken a significant programme of regulatory reform that will deliver real benefits for the private, public and third sectors. The administrative burden-reduction targets departments have set themselves form a significant part of this, as is the recently launched Public Sector Strategy, and delivering on these commitments remains a very high priority. These actions will take DBERR on its next steps forward on this agenda, helping to ensure that frontline public services, businesses and third sector organisations all feel the benefits of the Government's regulatory reform programme.

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