

Consultation on Primary Authority Arrangements relating to the Devolved Regulatory Responsibilities of Local Authorities in Scotland

June 2013

CONSULTATION ON PRIMARY AUTHORITY ARRANGEMENTS RELATING TO THE DEVOLVED REGULATORY RESPONSIBILITIES OF LOCAL AUTHORITIES IN SCOTLAND

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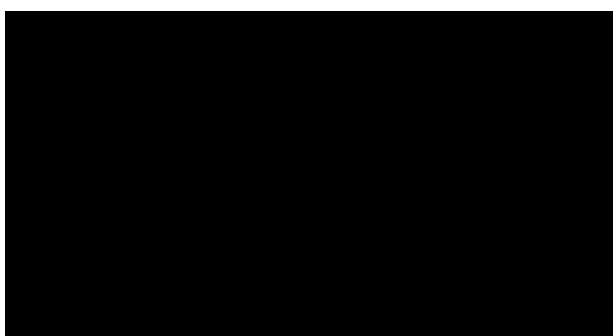
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I - MINISTERIAL FOREWORD



The Purpose of the Scottish Government is to make Scotland a more successful country, with opportunities for all to flourish, through increasing sustainable economic growth.

I am convinced that better regulation has an important role to play in achieving a more successful and sustainable Scotland and delivering a favourable business environment in which companies can grow and flourish. That view reflects what I am told when I visit businesses and business organisations across Scotland in my role as Minister for Energy, Enterprise and Tourism – and the way the business community responded to the consultation last year on better regulation options. Indeed this specific consultation is directly connected to the views submitted by members of the business community which favoured consistent regulation predicated on businesses proactively securing compliance through partnership working with local authorities. The model of Primary Authority Partnership was introduced in 2009 by the UK Government and their evidence suggests it has helped some businesses. On that basis I am very keen to understand whether there is broad support for an equivalent approach to local authority regulation in Scotland – and if so, how it should operate in practice.



Fergus Ewing MSP

Minister for Energy, Enterprise and Tourism

II - CONSULTATION ARRANGEMENTS

Consultation on Primary Authority Partnerships

We are inviting written responses on this consultation by 23 August 2013.

Please send your response with the completed Respondent Information Form (see "Handling your response" below) to the Scottish Government's Better Regulation team:

By Mail to: Graeme MacLennan

Better Regulation and Industry Engagement
Scottish Government
6th Floor, 5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

By Telephone: 0300 244 1145

By Email to: betterregulationconsultation@scotland.gsi.gov.uk

We would be grateful if you would use the consultation questionnaire contained in Annex B. However, responses in any format are welcome – please clearly indicate in your response which questions or parts of the consultation paper you are responding to, as this will aid collation of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government now has an email alert system for consultations <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). This system complements, but in no way replaces Scottish Government distribution lists. It is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form (Annex C) which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002. We would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available on the Scottish Government consultation web pages by 28 August 2013.

What happens next?

Following the closing date, all responses will be analysed and considered, along with any other available evidence from individuals, organisations and other interested parties. We aim to issue a report on this consultation by the end of 2013. The report will be posted on the Scottish Government Better Regulation webpages at <http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation>.

Comments

If you have any comments about how this consultation exercise has been conducted, please send them to the Better Regulation team. We welcome your views on any or all of the issues covered by this paper.

III - INTRODUCTION

1. The Scottish Government is committed to using all means possible to support economic and business growth. Making Scotland the best place to do business in Europe requires a regulatory landscape that protects our citizens, our heritage and our environment while concurrently providing a favourable business environment in which companies can grow and flourish.

2. The Economic Strategy continues to recognise the important role of better regulation in delivering a more successful and sustainable Scotland and promoting competitiveness. Where regulation does not meet the principles of better regulation - in legislation or in the way it is applied - it can place unnecessary burdens on business, hindering growth – in employment, and in the economy generally.

3. The Regulatory Reform (Scotland) Bill reflects the Scottish Government's determination to improve the way regulation is applied in practice across Scotland. It aims to improve the regulatory landscape, and in particular deliver consistency, efficiency and effectiveness – actively supporting local democracy and circumstance, and indeed the quality and professionalism of Scotland's regulators. The Bill also includes specific measures to further reform planning and deliver a simpler and more effective legislative framework for environmental regulation and enforcement.

4. However, it does not feature a specific and additional proposal which emerged from the consultation in 2012: that some equivalent of Primary Authority Partnerships - which were introduced by the UK Government through the Regulatory Enforcement and Sanctions Act 2008, and are in the process of being amended by the Enterprise and Regulatory Reform Act - should be adopted in Scotland, in the context of Scottish regulation. The UK Government's Primary Authority initiative allows a business to form a partnership with one local authority in order to receive tailored support in relation to a range of regulation. That "primary" authority is resourced by the business to assist in three ways: by issuing assured advice, co-ordinating enforcement action across all locations used by the business, and developing an inspection plan for the business as a whole.

5. With thanks to the business community in Scotland for highlighting this opportunity, and to COSLA for their on-going commitment to improving regulation, this consultation is focused on establishing whether there is broad support for a Scottish equivalent, what it would involve, and what benefits it might be expected to deliver.

6. The consultation period associated with this paper is less than the standard 12 weeks because a) in broad terms the rationale for and procedures associated with UK Primary Authority arrangements will be widely recognised by many businesses and by local authorities in Scotland, and b) without prejudice, and subject of course to decisions based on stakeholder responses, the Scottish Government is keen to leave open the option of enabling Scottish Primary Authority Partnerships at the earliest opportunity, by bringing forward Stage 2 amendments to the Regulatory Reform (Scotland) Bill.

IV - PRIMARY AUTHORITY

Background and the UK approach

7. The Scottish Government is keen to use this consultation to consider the ways in which Primary Authority might benefit businesses, across as wide a range of sectors as possible.

8. A key step in considering the case for, and form of, any Scottish Primary Authority approach is to understand the UK model and how it has worked in practice. With thanks to the UK Government's Better Regulation Delivery Office, the following paragraphs draw on material it has published¹ which describes:

- The policy/process as originally introduced;
- Evaluation evidence; and
- Changes now proposed to better support business growth.

9. Primary authority was established by the UK Government under the Regulatory Enforcement and Sanctions Act 2008² and has been in operation in England and Wales (and in Scotland in respect of reserved regulatory functions) since 2009. The stated rationale for the initiative was that Primary Authority would support a fundamental shift in the way regulators and businesses interact. It would allow the development of a transparent and co-operative relationship which would incentivise compliance because business would be supported in its efforts and earn recognition for success. At the same time, Primary Authority was expected to help local authorities in better targeting of their resources because duplication would be stripped out and they could focus more effectively on non-compliance and rogue traders.

10. Essentially, the UK Government's Primary Authority initiative allows a business³ to form a partnership with one local authority in order to receive tailored support in relation to a range of regulation.

¹ <http://www.bis.gov.uk/brdo/primary-authority>

² All the legislation underpinning Primary Authority can be downloaded. The relevant documents are:

- [Regulatory Enforcement and Sanctions Act 2008](#)
- [Guidance to the RES Act](#)
- [Co-ordination of Regulatory Enforcement \(Enforcement Action\) Order 2009](#)
- [Co-ordination of Regulatory Enforcement \(Procedures for References to LBRO\) Order 2009](#)
- [Co-ordination of Regulatory Enforcement \(Regulatory Functions in Scotland and Northern Ireland\) Order 2009](#)
- [Local Better Regulation Office \(Dissolution and Transfer of Functions Etc\) Order 2012](#)

³ The Primary Authority scheme is open to any business, charity or other organisation that is regulated by two or more local authorities in respect of a relevant function as defined in the Regulatory Enforcement and Sanctions Act 2008 ('the Act') and Orders made under it. A local authority can form a partnership only in respect of those relevant functions for which it has regulatory responsibility

11. Broadly, the primary authority may assist businesses in three ways: by issuing assured advice, co-ordinating enforcement action and developing an inspection plan.

Assured advice

11.1 The primary authority provides the business with assured advice on fulfilling its regulatory obligations. This advice must be followed by other local authorities where the business operates. For example, if a primary authority issues advice that procedures preventing slips and trips are sufficient to fulfil its legal obligation, another authority cannot insist that an alternative approach is used in its area.

Co-ordinating enforcement action

11.2 The primary authority co-ordinates enforcement action proposed against the business. Where enforcement action is proposed against the business, it must initially be notified to the primary authority, which assesses whether the proposed action is consistent with assured advice issued to the business. Experience of the Primary Authority scheme to date indicates a reduction in enforcement activity, as an approach to manage issues can often be agreed as a result of liaison between the enforcing authority and the primary authority, thereby reducing burden for enforcing authorities and businesses alike.

11.3 Where multiple enforcement actions are proposed against the business, the primary authority co-ordinates these which reduces duplication of effort. For example, where enforcement action is proposed in relation to an unsafe product sold across several local authority areas, the primary authority can act to resolve the situation without the need for each individual local authority to take separate action against the business.

Inspection plans

11.4 Partnerships can also work together to develop an inspection plan, agreeing on national priorities for the inspection of the business. Inspection plans provide a roadmap for routine inspections. They can provide information about the management policies which are in place, allowing an inspector to prepare in advance of an inspection and focus on checking that procedures are being implemented when he or she is on site. An inspection plan may identify areas of weakness for the business, thereby helping local authorities to concentrate efforts according to where the greatest risks lie.

11.5 Inspection plans enable partnerships to take a strategic view of inspection across the business, targeting enforcement to increase the impact and maximising the value of feedback to deliver further protections through improvements in compliance. Crucially, inspection plans apply only to routine and proactive inspections: authorities are still free to react to emergency situations or local complaints should they arise.

12. The UK Regulatory Enforcement and Sanctions Act 2008 enables a local authority to charge the business fees on a cost recovery basis in relation to the exercise of its functions as a primary authority (and in relation to reserved matters).

This is a key feature of Primary Authority arrangements, particularly in comparison to the Home Authority model which preceded Primary Authority and still remains in place. Home Authority now operates in situations when a business does not have a Primary Authority partnership (e.g. if a business chooses not to enter into a partnership or is legally unable to have one), but where there remains a clear need for regulatory activity in relation to that business to be co-ordinated. For example, instances of non-compliance that could be geographically widespread, potentially leading to similar but unconnected regulatory interventions by several local authorities.

13. The scope of the UK Primary Authority scheme, or the range of regulations which can be covered in partnerships, is also defined in the legislation. In practical terms, to be included in the scheme, a regulation must be:

- listed in Schedule 3 to the Regulatory Enforcement and Sanctions Act (see also Annex B); and
- enforced by local authorities in a way which falls within the definition of an “enforcement action” given at Section 28 of the Regulatory Enforcement and Sanctions Act and the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009.

Areas of regulation currently included

- | | | |
|--|-----------------------------|-----------------------|
| • Age-restricted sales | • Environmental protections | • General licensing |
| • Agriculture | • Explosives licensing | • Health and safety |
| • Animal establishments and companion animal welfare | • Fair trading | • Housing Metrology |
| • Consumer credit | • Farm animal health | • Petroleum licensing |
| | • Food safety & hygiene | • Pollution control |
| | • Food standards | • Product safety |
| | | • Road traffic |

14. An independent evaluation⁴ of Primary Authority was commissioned by the UK Government from RAND Europe in November 2010 to confirm it was delivering consistency for businesses operating across local authority areas

Perceptions of value

- Overall, 66% of the businesses surveyed thought that consistency of advice was improved or was about the same as it was before the scheme began.
- Businesses that compiled an inspection plan with their primary authority were more likely than those that had not to have experienced a more consistent approach to local authority regulation since their involvement in Primary Authority.
- Overall, 26% of business respondents believed that the burden of compliance was reduced through their participation in Primary Authority.
- Enforcing authorities were asked if they had observed any change in general compliance behaviour in primary authority businesses. A large majority (82%) indicated that they had not observed any change.
- In terms of overall satisfaction with the scheme, a large proportion of businesses (74%) were fairly or very satisfied with their involvement in the scheme. As businesses remain in the scheme for longer, they continue to be satisfied. A similar proportion of primary authorities (74%) indicated that their involvement in the scheme has been a reasonably positive or very positive experience overall.

⁴ <http://www.bis.gov.uk/assets/brdo/docs/publications-2011/11-1466-evaluating-pa.pdf>

15. According to UK Government data the number of businesses in a partnership has more than trebled since that (rather mixed, and now quite mature) evaluation and it believes that it is clear that the scheme is relevant to a variety of businesses of different sizes operating in different sectors. The UK Government also asserts that:

- Primary Authority achieves cost reductions and increased efficiency for both businesses and regulators
- it delivers net benefits of £19.9 million to businesses and local authorities
- overall, for every £1 of cost incurred in operating Primary Authority a benefit of £3.60 is generated
- the net benefits to business alone are estimated at £12.5 million per year with three quarters of businesses saying they are satisfied or very satisfied with their involvement in Primary Authority.

16. The UK Government believes the scheme allows local authorities to focus their regulatory resources where they will have the most impact. It saves time for officers and reduces duplication, while the primary authority's costs for providing the enhanced support can be recovered from the business. Improved protections are achieved both because scarce resources can be targeted at high risk or repeat offenders, and because Primary Authority partnerships foster a more collaborative approach to achieving compliance – which delivers benefits in terms of dispute resolution and assurance from a business perspective.

UK Primary Authority Key Facts (at March 2013)

703 businesses are in partnerships with 100 local authorities across the UK, covering over 59,800 premises and over 1.6 million employees.

42% of businesses in Primary Authority are from the retail or wholesale sectors, 22% are in manufacturing, 10% are in the hospitality sector, and the rest are from a range of other business sectors including financial, telecommunications and entertainment.

49% of Primary Authority businesses are large (250+ employees)

21% of Primary Authority businesses are medium (50-249 employees)

30% of Primary Authority businesses are small (less than 50 employees)

Source: UKG- BRDO website: <http://www.bis.gov.uk/brdo/primary-authority>

Changes proposed by the UK Government

17. In order to build on the perceived success of Primary Authority, the UK Government is making changes to the scheme through the Enterprise and Regulatory Reform Act, to:

- allow more businesses to join by extending the eligibility criteria; and
- strengthen inspection plans.

18. Under existing UK Primary Authority arrangements a business or person is eligible only if they carry out an activity in the area of two or more local authorities, and each of those authorities has the same relevant function in relation to that activity. For example, a business would be eligible where it sells a product in two different local authority areas and is subject to regulatory enforcement by trading

standards in both those authorities' areas. The intention behind the changes now planned is to extend Primary Authority to businesses who share an approach to regulatory compliance, such as the members of a trade association, even if not all of them operate in the area of more than one local authority. This means, for example, that where a number of members of a trade association are small businesses operating from single stores they could all - collectively - be eligible for the Primary Authority arrangements if the effect of their arrangements with their trade association meant that they shared an approach to compliance in relation to the same activity with other members operating in different local authority areas. Those arrangements might be, for example, that the trade association provides its members with regulatory guidance.

19. Similarly, under existing UK Primary Authority arrangements, primary authorities draw up inspection plans in respect of the regulated business or person with whom they have a relationship. These inspection plans are intended to act as a guide for other local authorities who also carry out inspections in relation to that business or person. Local authorities, including the primary authority, must have regard to these plans. The intention behind the planned changes is to strengthen inspection plans and increase their use: inspecting local authorities will be required to provide the primary authority with a report on relevant inspection activities; inspecting local authorities will not be able to deviate from an inspection plan unless the primary authority receives written notification of the deviation and gives its consent.

20. In April 2013 the UK Government also published a formal response⁵ to the earlier consultation entitled "Extending the Range of Regulations Covered by Primary Authority". The consultation sought views on including within Primary Authority: the age restricted sale of gambling; the Housing Health and Safety Rating System; sunbed tanning; and Welsh regulations on single use carrier bag charging. The UK Government's view is that Primary Authority will provide an effective and beneficial tool in reducing the regulatory burdens associated with these requirements and ensuring consistent compliance.

Primary Authority in Scotland

21. It is important to recognise that Scottish businesses and local authorities are already participating in UK Primary Authority arrangements in relation to matters which are reserved.

22. For example, in 2011 the Trading Standards Service of Glasgow City Council and the 26 companies making up the Arnold Clark Group signed a Primary Authority Agreement. At that time the Arnold Clark Group included 147 branches across Britain from Warrington to Inverness. The Arnold Clark Group has since then added just over 20 branches to their business.

23. The primary objective behind the agreement was to reduce complaints and compliance issues whilst ensuring the business could thrive and expand.

⁵ <http://www.bis.gov.uk/brdo/publications/closed-consultations>

24. In order to achieve this objective the agreement sets out the anticipated inputs and outputs which include:

- 2 Officers for 80% of available time
- 4 Weeks of Management Training Sessions
- 1 Week of Management Meetings and discussions
- Programme of Branch Compliance Visits

25. The Partnership has benefited the Arnold Clark Group as they can rely on a single consistent source of advice and guidance on compliance with the relevant legislation. The company has also commented that the training of their managers has been a huge advantage to the business and has assisted in improving their overall customer service and compliance levels.

26. The partnership has developed a level of co-operation which has meant that the Trading Standards Service of Glasgow City Council has been given access to the internal systems of the Arnold Clark Group. That access has helped in preventing any issues arising and thereby assists in the Group's compliance with all the relevant legislation.

"Working with Arnold Clark in the partnership agreement has been extremely successful. The creation and implementation of the Treating Customer Fairly programme to improve compliance and reduce consumer complaints has been really effective."

Neil Coltart, Group Manager (Trading Standards), Glasgow City Council

"Working with Glasgow Trading Standards as part of the partnership agreement has greatly benefited the Arnold Clark Group. Having the ability to have a primary authority control our compliance and train our managers has been a huge advantage to the business and has assisted in improving our overall customer service and compliance levels."

Eddie Hawthorne, Managing Director, Arnold Clark Automobiles Limited

V - QUESTIONS FOR SCOTLAND

27. The Scottish Government is determined to promote in all Scottish regulators a broad and deep alignment with the government's Purpose: To focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Scottish Government is therefore determined to ensure that the Regulatory Reform (Scotland) Bill further improves the way regulation is applied in Scotland. We want to protect our people and environment **and** help businesses to flourish and create jobs. We are keen to explore ideas and options which are consistent with those outcomes.

28. As such, the Scottish Government is keen to establish wider stakeholder views on whether some equivalent of the UK Primary Authority initiative should be adopted in Scotland, in the context of Scottish regulation. While we recognise that this is unlikely to be of interest or value to all businesses operating in Scotland, we wish to establish whether businesses and Local Authorities would welcome the capacity to form this sort of compliance partnerships. We recognise also that there may be legal or other factors which militate in favour of a distinctive Scottish protocol. Subject to decisions based on this consultation, and for the avoidance of doubt, the Scottish Government may develop and implement a Primary Authority model which works for Scotland. We have no plans to extend UK arrangements to devolved matters although we would of course continue to liaise closely with the UK Government (and indeed other Devolved Administrations) to optimise arrangements for cross-border regulatory activity.

29. The following set of deliberately open questions provide a framework for establishing whether there is broad support for a Scottish equivalent - and what that would involve:

Q.1 – In principle, do you favour the introduction of Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland? Why? What impact would this have on current local discretion?

Q1A – If you do not support, in principle, the introduction of Primary Authority arrangements for the devolved regulatory responsibilities of local authorities in Scotland, do you favour an alternative model which would optimise consistency and compliance, including costs and administration? Please provide details.

Q2 – The UK approach lists relevant regulatory responsibilities in Schedule 3 to the Regulatory Enforcement and Sanctions Act. Should relevant devolved regulatory responsibilities of local authorities in Scotland also be specified in legislation as “in scope”? Why?

Q2A – Which specific devolved regulatory responsibilities of local authorities in Scotland should be specified in legislation as “in scope”? Why?

Q2B – Are there any specific devolved regulatory responsibilities of local authorities in Scotland which should **not** be specified in legislation as “in scope”? Please explain your rationale for such exclusion?

Q3 – Should business eligibility to engage in a Primary Authority Partnership be restricted to “any business, charity or other organisation that is regulated by two or more local authorities in respect of a relevant function”? Please explain your view.

Q4 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the current or planned UK model in terms of the focus on assured information and advice, inspection plans and enforcement action? Please explain your view, particularly in relation to any scope to optimise consistency and compliance, including costs and administration.

Q5 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the UK model in terms of fees and charging regimes? If not what alternative model should be adopted? Please explain your view.

Q6 – What, if any, additional considerations should be taken into account in considering whether or not to introduce Primary Authority arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland? What measures, if any, should be considered to avoid the potential for forum shopping? Please explain your view.

ANNEX A – THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically, Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government website enabling a wider audience to access the paper and submit their responses.

Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (e.g. analysis of response reports) can be accessed at: <http://www.scotland.gov.uk/consultations>. The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

ANNEX B – SCHEDULE 3 TO THE REGULATORY ENFORCEMENT AND SANCTIONS ACT: SPECIFIED ENACTMENTS

Accommodation Agencies Act 1953 (c. 23), section 1
Administration of Justice Act 1970 (c. 31), section 40
Agricultural Produce (Grading and Marking) Act 1928 (c. 19)
Agriculture Act 1967 (c. 22)
Agriculture Act 1970 (c. 40)
Agriculture and Horticulture Act 1964 (c. 28), Part 3
Agriculture (Miscellaneous Provisions) Act 1954 (c. 39), section 9
Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)
Animal Boarding Establishments Act 1963 (c. 43)
Animal Health Act 1981 (c. 22)
Animal Health and Welfare Act 1984 (c. 40)
Animal Welfare Act 2006 (c. 45)
Anti-social Behaviour Act 2003 (c. 38)
Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11)
Breeding of Dogs Act 1973 (c. 60)
Breeding of Dogs Act 1991 (c. 64)
Business Names Act 1985 (c. 7)
Cancer Act 1939 (c. 13), section 4
Caravan Sites and Control of Development Act 1960 (c. 2)
Celluloid and Cinematograph Film Act 1922 (c. 35)
Charities Act 1993 (c. 10), sections 76 to 78
Charities Act 2006 (c. 50), section 50
Children and Young Persons Act 1933 (c. 12), Part 1
Children and Young Persons Act 1963 (c. 37), Part 2
Children and Young Persons (Protection from Tobacco) Act 1991 (c. 23)
Christmas Day (Trading) Act 2004 (c. 26)
Cinemas Act 1985 (c. 13)
Clean Air Act 1993 (c. 11)
Clean Neighbourhoods and Environment Act 2005 (c. 16), Parts 2, 6 and 7
Companies Act 1985 (c. 6), Chapter 1 of Part 11 and section 693
Consumer Credit Act 1974 (c. 39)
Consumer Protection Act 1987 (c. 43)
Control of Pollution Act 1974 (c. 40)
Control of Pollution (Amendment) Act 1989 (c. 14)
Copyright, Designs and Patents Act 1988 (c. 48), sections 107A and 198A
Countryside Act 1968 (c. 41)
Courts and Legal Services Act 1990 (c. 41), Parts 4 and 6
Criminal Justice and Police Act 2001 (c. 16), Part 1
Criminal Justice and Public Order Act 1994 (c. 33), Parts 5, 7 and 12
Crossbows Act 1987 (c. 32)
Dangerous Dogs Act 1991 (c. 65)
Dangerous Wild Animals Act 1976 (c. 38)
Defective Premises Act 1972 (c. 35)
Development of Tourism Act 1969 (c. 51)
Disability Discrimination Act 1995 (c. 50)
Dogs Act 1906 (c. 32)
Education Reform Act 1988 (c. 40), section 215

Employment Agencies Act 1973 (c. 35)
 Energy Act 1976 (c. 76)
 Enterprise Act 2002 (c. 40), Part 8
 Environment Act 1995 (c. 25)
 Environment and Safety Information Act 1988 (c. 30)
 Environmental Protection Act 1990 (c. 43)
 Estate Agents Act 1979 (c. 38)
 Explosives Act 1875 (c. 17)
 Explosives Act 1923 (c. 17)
 Explosives (Age of Purchase &c.) Act 1976 (c. 26)
 Factories Act 1961 (c. 34)
 Fair Trading Act 1973 (c. 41)
 Farm and Garden Chemicals Act 1967 (c. 50)
 Farriers (Registration) Act 1975 (c. 35)
 Fire and Rescue Services Act 2004 (c. 21)
 Fire Safety and Safety of Places of Sport Act 1987 (c. 27)
 Firearms Act 1968 (c. 27)
 Firearms Act 1982 (c. 31)
 Fireworks Act 2003 (c. 22)
 Food Act 1984 (c. 30)
 Food and Environment Protection Act 1985 (c. 48), Parts 1 and 2
 Food Safety Act 1990 (c. 16), Parts 2 and 3
 Food Standards Act 1999 (c. 28)
 Forgery and Counterfeiting Act 1981 (c. 45)
 Fraud Act 2006 (c. 35)
 Gambling Act 2005 (c. 19)
 Game Act 1831 (c. 32)
 Ground Game Act 1880 (c. 47)
 Guard Dogs Act 1975 (c. 50)
 Hallmarking Act 1973 (c. 43)
 Health Act 2006 (c. 28), Part 1
 Health and Safety at Work etc. Act 1974 (c. 37)
 Highways Act 1980 (c. 66)
 House to House Collections Act 1939 (c. 44)
 Housing Act 1985 (c. 68), Parts 8, 9 and 10
 Housing Act 1996 (c. 52), Part 8
 Housing Act 2004 (c. 34), Parts 2 to 5
 Hypnotism Act 1952 (c. 46)
 Intoxicating Substances (Supply) Act 1985 (c. 26)
 Knives Act 1997 (c. 21)
 Legal Services Act 2007 (c. 29), section 198
 Licensing Act 2003 (c. 17)
 Litter Act 1983 (c. 35)
 Local Government Act 1972 (c. 70), Parts 9 and 11
 Local Government Act 1985 (c. 51), Part 2
 Local Government Act 1988 (c. 9), Part 4
 Local Government Act 2000 (c. 22), Part 1
 Local Government (Miscellaneous Provisions) Act 1976 (c. 57)
 Local Government (Miscellaneous Provisions) Act 1982 (c. 30)
 London Government Act 1963 (c. 33)

London Local Authorities Act 1990 (c. vii)
 London Local Authorities Act 1991 (c. xiii)
 London Local Authorities Act 1994 (c. xii)
 London Local Authorities Act 1995 (c. x)
 London Local Authorities Act 1996 (c. ix)
 London Local Authorities Act 2000 (c. vii)
 London Local Authorities Act 2004 (c. i)
 London Local Authorities Act 2007 (c. ii)
 London Olympic Games and Paralympic Games Act 2006 (c. 12)
 Malicious Communications Act 1988 (c. 27)
 Medicines Act 1968 (c. 67)
 Mines and Quarries Act 1954 (c. 70)
 Mines and Quarries (Tips) Act 1969 (c. 10)
 Mock Auctions Act 1961 (c. 47)
 Motor Cycle Noise Act 1987 (c. 34)
 National Lottery etc. Act 1993 (c. 39), sections 12 and 13
 Noise Act 1996 (c. 37)
 Noise and Statutory Nuisance Act 1993 (c. 40)
 Offices, Shops and Railway Premises Act 1963 (c. 41)
 Offshore Safety Act 1992 (c. 15)
 Olympic Symbol etc. (Protection) Act 1995 (c. 32)
 Osteopaths Act 1993 (c. 21)
 Pedlars Act 1871 (c. 96)
 Performing Animals (Regulation) Act 1925 (c. 38)
 Pests Act 1954 (c. 68)
 Pet Animals Act 1951 (c. 35)
 Petroleum (Consolidation) Act 1928 (c. 32)
 Petroleum (Transfer of Licences) Act 1936 (c. 27)
 Plant Health Act 1967 (c. 8)
 Poisons Act 1972 (c. 66)
 Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c. 31)
 Pollution Prevention and Control Act 1999 (c. 24)
 Prevention of Damage by Pests Act 1949 (c. 55)
 Prices Act 1974 (c. 24)
 Private Hire Vehicles (London) Act 1998 (c. 34)
 Private Security Industry Act 2001 (c. 12)
 Property Misdescriptions Act 1991 (c. 29)
 Protection Against Cruel Tethering Act 1988 (c. 31)
 Protection from Harassment Act 1997 (c. 40)
 Protection of Animals Act 1911 (c. 27)
 Public Health Act 1936 (c. 49)
 Public Health Act 1961 (c. 64)
 Public Passenger Vehicles Act 1981 (c. 14)
 Refuse Disposal (Amenity) Act 1978 (c. 3)
 Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541)
 Riding Establishments Act 1964 (c. 70)
 Riding Establishments Act 1970 (c. 32)
 Road Traffic Act 1988 (c. 52), sections 15A, 17, 18, 41, 71, 81, 82 and 196
 Road Traffic (Consequential Provisions) Act 1988 (c. 54)
 Road Traffic (Foreign Vehicles) Act 1972 (c. 27)

Safety of Sports Grounds Act 1975 (c. 52)
Sale of Goods Act 1979 (c. 54)
Scotch Whisky Act 1988 (c. 22)
Scrap Metal Dealers Act 1964 (c. 69)
Sea Fisheries Regulation Act 1966 (c. 38)
Serious Organised Crime and Police Act 2005 (c. 15), Part 4
Slaughter of Poultry Act 1967 (c. 24)
Slaughterhouses Act 1974 (c. 3)
Sunday Trading Act 1994 (c. 20)
Supply of Goods and Services Act 1982 (c. 29)
Supply of Goods (Implied Terms) Act 1973 (c. 13)
Theatres Act 1968 (c. 54)
Theft Act 1968 (c. 60)
Theft Act 1978 (c. 31)
Timeshare Act 1992 (c. 35)
Tobacco Advertising and Promotion Act 2002 (c. 36)
Town Police Clauses Act 1847 (c. 89)
Trade Descriptions Act 1968 (c. 29)
Trade Marks Act 1994 (c. 26), section 93
Trading Representations (Disabled Persons) Act 1958 (c. 49)
Traffic Management Act 2004 (c. 18)
Transport Act 1981 (c. 56)
Unfair Contract Terms Act 1977 (c. 50)
Unsolicited Goods and Services Act 1971 (c. 30)
Vehicles (Crime) Act 2001 (c. 3)
Veterinary Surgeons Act 1966 (c. 36)
Video Recordings Act 1984 (c. 39)
Violent Crime Reduction Act 2006 (c. 38)
Water Industry Act 1991 (c. 56), sections 77 to 85
Water Resources Act 1991 (c. 57)
Weeds Act 1959 (c. 54)
Weights and Measures &c. Act 1976 (c. 77)
Weights and Measures Act 1985 (c. 72)
Welfare of Animals at Slaughter Act 1991 (c. 30)
Wildlife and Countryside Act 1981 (c. 69)
Zoo Licensing Act 1981 (c. 37)

ANNEX C – RESPONDENT'S INFORMATION FORM AND CONSULTATION QUESTIONNAIRE

Consultation on Primary Authority Arrangements relating to the Devolved Regulatory Responsibilities of Local Authorities in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
Postcode	Phone	Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☐

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

Yes, make my response,
name and address all
available ☐

or

Yes, make my response
available, but not my
name and address ☐

or

Yes, make my response
and name available, but
not my address ☐

- (d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☐ **Yes**

☐ **No**

CONSULTATION QUESTIONS

Question 1 – In principle, do you favour the introduction of Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland?

Yes ☐ No ☐

Why? What impact would this have on current local discretion?

Comments

Question 1A – If you do not support, in principle, the introduction of Primary Authority arrangements for the devolved regulatory responsibilities of local authorities in Scotland, do you favour an alternative model which would optimise consistency and compliance, including costs and administration? Please provide details.

Comments

Question 2 – Should relevant devolved regulatory responsibilities of local authorities in Scotland be specified in legislation as “in scope”? Why?

Yes ☐ No ☐

Comments

Question 2A – Which specific devolved regulatory responsibilities of local authorities in Scotland should be specified in legislation as “in scope”?

Comments

Why?

Comments

Question 2B – Are there any specific devolved regulatory responsibilities of local authorities in Scotland which should **not** be specified in legislation as “in scope”? Please explain your rationale for such exclusion.

Comments

Question 3 – Should business eligibility to engage in a Primary Authority Partnership be restricted to “any business, charity or other organisation that is regulated by two or more local authorities in respect of a relevant function”?

Yes ☐ No ☐

Please explain your view

Comments

Question 4 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the current or planned UK model in terms of the focus on assured information and advice, inspection plans and enforcement action?

Yes ☐ No ☐

Please explain your view, particularly in relation to any scope to optimise consistency and compliance, including costs and administration.

Comments

Question 5 – Should Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland follow the UK model in terms of fees and charging regimes? If not what alternative model should be adopted?

Yes ☐ No ☐

Please explain your view.

Comments

Question 6 – What, if any, additional considerations should be taken into account in considering whether there is broad support for Primary Authority Partnership arrangements relating to the devolved regulatory responsibilities of local authorities in Scotland, and what would that involve? What measures, if any, should be considered to avoid the potential for forum shopping? Please explain your view.

Comments



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