

**Civic Government (Scotland) Act 1982
Better Regulation Bill – Consultation**

Report by Director, Corporate Resources

1 Purpose of Report

To appraise the Committee about Consultation about the Better Regulation Bill which was released on 2 August 2012 for comments by 26 October 2012 and which has only recently come to light.

2 Background

The Consultation is being guided by the Minister for Energy, Enterprise and Tourism with a view to obtaining sustainable economic growth to ensure “ a good natural and built environment, protecting and improving the health of our communities, protecting consumers, ensuring a level playing field for business and enhancing competitiveness.” The Scottish Government are “committed to better regulation and are working to deliver changes to the existing stock of regulation; the flow of new regulation; and the culture of regulation in Scotland. “

The Bill recognises that “regulators can support a favourable business environment in Scotland by ensuring that they consider the impact of their regulatory activity on business and apply the principles of better regulation by being consistent, proportionate, transparent, accountable and targeted only at cases where action is needed. This is beneficial both for business and helping regulators deliver their outcomes more efficiently and effectively.”

The Scottish Government consider that “It will improve the regulatory landscape by addressing concerns raised by business about regulatory inconsistency, with measures seeking to enhance the delivery of better regulation, and further planning reform. This will improve the efficiency, effectiveness and consistency of process across environmental regulation regimes and introduce a more consistent range of tools and resources for environmental regulation and enforcement. “

The Executive Summary is shown in the **Appendix**. A copy of the Consultation document has been placed in the Members’ Library.

3 Areas under Review

The key features of the Consultation document focus on:-

- Defining and Implementing national standards and systems

- Duty to promote economic and business growth in regulatory activity
- Reviews and sunseting ie regularly reviewing regulations
- Prompt Payment
- Common Commencement Dates (April and October) for Regulations
- Mobile Food Businesses and a transferable Certificate of Compliance
- Planning Reform : Linking planning application fees to the performance of the Planning Authority
- Extending Statutory Review Mechanisms t challenges against Scottish Ministers' decisions in infrastructure projects.

In the time available, it has not proved possible to enter into detailed analysis of the subject.

In so far as this consultation relates to planning matters, a series of prior consultations took place earlier in the year (and which were responded to by the umbrella planning bodies in Scotland). As such the Head of Planning considers that there is no need for any further comment on these aspects.

4 Consultations

Consultations have not yet taken place with the Police, Fire Officer and Planning and Trading Standards Officers, etc to help arrive at conclusions in relation to the licensing aspects.

5 Conclusion

The consultation is wide ranging and covers aspects that would normally be dealt with under dedicated new legislation in the relative discipline.

In respect of the General Purposes Committee, comment can be made in relation to the Licensing aspects.

However, in order to meet the deadline, consideration needs to be given to the way in which this exercise should be considered.

6 Recommendation

The Committee is asked to consider remitting to the Director, in consultation with the Chair to formulate a response to the consultation, in respect of licensing provisions, including any comments that may be made by Elected Members.

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Background Papers:

File C G 10.1

Appendix

Executive Summary

Better regulation is crucial to delivering sustainable economic growth and providing a favourable business environment in which companies can grow and flourish. The Scottish Government is wholly committed to better regulation and the 2011 Programme for Government signalled the Scottish Government's intention to develop and bring forward a Better Regulation Bill in 2012-13. It stated that the Bill would aim "to improve further the way regulations are applied in practice across Scotland, by better defining national expectations and standards and the context for local variations". This consultation sets out proposals for potential elements of the proposed Better Regulation Bill.

The core proposal is for new powers enabling duties to be placed on local authorities and other regulators to implement national regulation systems and policies except where a local authority makes a compelling case that local circumstances merit a variation. Such an approach would deliver improved consistency, efficiency and effectiveness while still accommodating local democracy and circumstance.

Over the last few years progress has been achieved in requiring regulators to have regard to economic and business considerations and the Scottish Government wants to continue to promote a broad and deep involvement amongst Scottish regulators in achieving Sustainable Economic Growth. To this end, consideration is being given to requiring regulators to consider (and report on) the impact of their regulatory activity on business and/or respecting the principles of better regulation.

Review measures and sunseting ensures regulation is kept up to date, is effective and removes that which is no longer needed. Such a policy could provide a systematic vehicle for looking at whether regulation is still required after a period of time and this consultation seeks views on this. Views are also sought on the introduction of common commencement dates for Scottish regulations impacting on business.

Another issue affecting business is cash flow. Cash flow problems can put at risk otherwise viable companies and while the public sector continues to support and improve prompt payment of invoices - the Scottish Government makes more than 98% of payments within 10 days - anecdotal evidence suggest that business to business performance is not following the same trend. Enforcement of European legislation on late payments, fixing payment periods and allowing business to claim interest, has proved difficult and views are being sought on measures which might help change the business culture, further encourage prompt payment and thereby support business competitiveness.

Consistency is one of the key principles of better regulation on which the development and implementation of regulation should be based. As a result of issues around inconsistent application of food safety standards in respect of a street trading vehicle operating in different local authority areas, it is proposed that a consistent national approach is achieved by requiring all Scottish food authorities to have regard to national standards and accept certificates of compliance issued by other authorities.

By removing duplication and delivering consistency, time savings for both business and local authorities would be achieved.

Finally, the Scottish Government has announced a package of proposals to help the planning system reach its potential in supporting economic recovery. While the emphasis is on non legislative measures, some legislative changes may be required. New powers are proposed, for example, to link the level of planning fee payable to an assessment of performance. This document seeks views on the most effective mechanism for introducing a link between fees and performance. It also seeks views on review mechanisms for challenging Scottish Ministers' decisions on infrastructure projects.