

**Northern Ireland**  
**Better Regulation Strategy**

## **Proposals To Reduce Regulatory Burdens and Encourage Business**

### **1. Regulatory Impact Assessment (RIA) Requirements**

(i) Review RIAs

The introduction of a new procedure whereby all legislation which required a RIA to be drawn up before its introduction would in addition require a Review RIA to be completed at some point within ten years of the introduction of the legislation.

(ii) Micro Business Test

The introduction of a micro business test which would entail an assessment of the impact of any proposed legislation on businesses of less than 5 employees.

(iii) Reporting and Monitoring Arrangements

New guidance to be prepared by DETI covering arrangements and responsibilities for reporting on RIAs and monitoring standards. While this will be based on the current GB guidance it will also take into account aspects unique to Northern Ireland such as the devolved administrations legislative arrangements.

### **2. Consideration of Business Concerns**

DETI will liaise with other Departments, as appropriate, for consideration to be given to the various points raised by business organisations and for feedback to be provided to DETI who will co-ordinate appropriate responses to the business organisations.

### **3. Notification Period and Guidance on Implementation for All New Legislation Affecting Business**

Since 1 January 2001 all Whitehall Departments have undertaken to provide guidance to business on new legislation affecting them, at least 12 weeks before the legislation comes into operation. Northern Ireland business representatives have indicated that they would be very keen to see a similar arrangement introduced here. The only exemptions from the requirement will be when timetables are unavoidably dictated by either emergency situations such as risks to health etc or by EU or other International processes. Further guidance on precise action to be taken by Departments will be provided by DETI.

#### **4. Enforcement Concordat**

In GB in March 1998 an Enforcement Concordat was launched jointly by central and local government. It was developed in consultation with central government departments, local authorities, business, and consumer groups. Its purpose was to serve as a blueprint for fair, practical and consistent enforcement based on existing best practice in enforcement policy. All enforcement agencies in GB were encouraged to sign up to principles contained in the Concordat. At that time it was considered that there were fewer problems with enforcement arrangements in Northern Ireland because much more enforcement was centralised than in GB. However, business representatives have raised concerns about duplication of effort in enforcement activity between various agencies and the tendency towards a bureaucratic approach in a number of areas. DETI therefore proposes to actively encourage both central government departments and local authorities to sign up to the principles which will be set out in a Concordat similar to that developed in GB.

## **Proposals to Reduce Regulatory Burdens on Business - Guidance Note 28 December 2001**

### **Action Required**

1. From the date of this note, action is required as detailed in the following paragraphs.

### **Regulatory Impact Assessment (RIA) Requirements**

#### Review RIAs

2. The introduction of a new procedure where by all future legislation which requires a RIA to be drawn up will also require a Review RIA to be completed within an appropriate period (not exceeding 10 years) of the introduction of the legislation. The purpose of the review RIA (a date for which should be identified as part of the original RIA) is to ensure that the burden imposed upon business by the legislation has not increased.
3. The following guidelines should be of use when considering the need for or preparing a review RIA: -
  - (i) Where the need for a Review RIA is accepted in an original RIA the lead Department is committed to completion or a 'Regulatory MOT' within ten years of the introduction of the regulation. Departments are free to review regulations at any point within the ten years if this coincides with a pre- programmed review e.g. EU Directives often have a timetable for review built in.
  - (ii) Review RIA's must be committed to in all cases where the proposal or the impact of the regulation is thought to be 'significant'. If there is difficulty in deciding what is 'significant' the position should be discussed with the DETI RIU. As a guide, the criteria used by the cabinet office for judging whether a proposal is 'significant' are as follows: -
    - Does the issue have a high topicality or sensitivity? Or
    - Is the issue one on which the Better Regulation Task Force has reported or where there is Task Force work in hand? Or
    - Would the proposed regulation have a disproportionate impact on a particular group e.g. small or micro business?
  - (iii) The Review RIA should take the Final RIA as its starting point and update the assessment made in the light of the implementation of the regulation. The Review RIA will consequently be able to provide an accurate assessment of the impact rather than the hypothetical estimate. Similarly,

the risk assessment can be updated taking account of any changes in the risk, which have occurred. The questions which should be asked are:

- Does the regulation remain the most effective option for achieving the aim?
  - Does the regulation remain fit-for-purpose?
  - Does the benefit continue to outweigh the costs?
- (iv) The Review RIA should again be subject to public consultation and subsequently the Minister responsible can decide the best action to take in the light of the assessment made within the Review RIA.
- (v) The Review RIA must be signed off by the Minister and copied to DETI RIU prior to publication.

#### Micro Business Test

4. The introduction of a micro business test which would entail an assessment of the impact of any proposed legislation on businesses of less than 5 employees. This test should be carried out in a similar way to the small business litmus test, currently used to measure the impact of legislation on small businesses with less than 25 employees.
5. Serious consideration should be given to options that limit or do not involve regulation where possible. Examples of how this may be achieved are listed below:-
- Relying on consumer choice, competition and innovation;
  - Improving advice or information;
  - Using a code of practice. Approved codes of practice have the force Of law and are subject to the RIA process;
  - Economic instruments e.g. user charges, taxes or tax concessions;
  - Asking the industry to regulate itself;
  - Simplifying or better targeting existing regulations through a deregulation order;
  - Introducing a time limit on the regulation (sun setting) or making it subject to automatic review.

#### Reporting and Monitoring Arrangements

6. New NI guidance is currently being prepared by DETI covering arrangements and responsibilities for reporting on RIAs and monitoring standards. While this will be based on the current GB guidance (Good Policy Making: A Guide to Regulatory Impact Assessment) it will also take account of aspects unique to Northern Ireland such as the devolved-administrations legislative arrangements. Copies of the new NI guidance will be circulated to Departments early in the New Year.

## Consideration of Business Concerns

7. Business concerns about Government Regulation have been raised through business organisations. Departments are requested to consider the points raised in respect of the areas for which they are responsible and either advise of any changes that can be made to improve the situation or provide reasons as to why nothing can be done. Departments are asked to provide feedback by Friday 1 February 2002 to DETI who will co-ordinate appropriate responses to the business organisations.

## **Notification Period and Guidance on Implementation for All New Legislation affecting Business**

8. Since 1 January 2001 all Whitehall Departments have undertaken to provide guidance to business on new legislation affecting them, at least 12 weeks before the legislation comes into operation. Northern Ireland business representatives indicated that they would be very keen to see a similar arrangement introduced here. The only exemptions from the requirement will be when either emergency situations such as risks to health care etc or ED or other international processes unavoidably dictate timetables.
9. The main principles in issuing guidance to business on compliance with new legislation are as follows:
  - (i) Be aware of the serious problems that can be caused for business due to having inadequate time to prepare for the implementation of new legislation;
  - (ii) Guidance on new legislation likely to impact upon business should issue at least 12 weeks before the new legislation comes into force;
  - (iii) Given that all businesses, particularly small/micro businesses will not have the resources or expertise to dedicate to understanding complex legislative requirements every effort should be made to ensure that those businesses likely to be affected know in advance that guidance on legislation will be available 12 weeks prior to the legislation coming into force, and from where the guidance can be obtained;
  - (iv) Guidance should be drafted at the same time as the legislation is being prepared in order that it is ready for issue when the legislation is finalised;
  - (v) Departments need to be aware of the Assembly requirements relating to legislation. This may lead to the issuing of draft guidance to make small businesses aware of the proposed changes that are in the pipeline, with formal guidance being issued after the legislation became law.
  - (vi) If the following exceptional circumstances apply it is likely to be impractical to issue the guidance within the 12-week target period: -

- when timetables are unavoidably dictated by EU or other international processes;
- legislation required to deal with emergency situations e.g. risks to health or UN sanctions prohibiting the export of various goods;
- legislation tied to the budget or other annual financial cycles;
- permissive regulations and those which do not have an adverse impact on business.

Where the situation requires urgency in the public interest resulting in an implementation period of less than 12 weeks, reasons for having departed from the 12-week requirement should be provided when seeking clearance from ministers. An explanation of the steps that will be taken to minimise the consequences for small businesses should also be included.

### **Enforcement Concordat**

10. In GB in March 1998 an Enforcement Concordat was launched jointly by central and local government. It was developed in consultation with central government departments, local authorities, business and consumer groups. Its purpose was to serve as a blueprint for fair, practical and consistent enforcement based on existing best practice in enforcement policy. All enforcement agencies in GB were encouraged to sign up to principles contained in the Concordat. At that time it was considered that there were fewer problems with enforcement arrangements in Northern Ireland because more enforcement was centralised than in GB. However, business representatives have raised concerns about duplication of effort in enforcement activity between various agencies and the need to avoid a bureaucratic approach towards enforcement.
11. DETI, in conjunction with Trading Standards Service (TSS) and with input from business, intends to engage all NI enforcement agencies in encouraging a universal acceptance of and adherence to good practice principles contained in the Enforcement Concordat. Departments are therefore asked to actively encourage both the central government enforcement agencies and local authority enforcers, for whom they have responsibility, to engage with DETI in an effort to secure a uniform approach and adherence to good practice principles which are set out in the Concordat.

**What follows is the text of the Enforcement Concordat agreed by Central and local government. It is written in the form of an undertaking- a concordat - which enforcement agencies, including local Authorities, are invited to give to business and others who are subject to enforcement.**

## **Enforcement Concordat**

### **The Principles of Good Enforcement: Policy and Procedure**

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of Legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated." We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

## **Principles of Good Enforcement: Policy**

- **Standards**

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

- **Openness**

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any changes that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

- **Helpfulness**

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number 'for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations etc will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

- **Complaints about service**

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

- **Proportionality**

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

- **Consistency**

We will carry out our duties in a fair; equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

- **Principles of Good Enforcement: Procedures**

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what timescale, and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within five working days and, in all cases, within ten working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).