

**DATE:** 11 July 2001

**VENUE:** Committee Room 1

**TITLE:** Progress Report on Regulatory Reform Act

### **Purpose of the Paper**

1. To provide the Committee with an update on action to promote Better Regulation, including the Assembly's role in relation to the Regulatory Reform Act which was discussed at EDC on 31 January (EDC 02-01(p5)).

### **Background**

2. Businesses in Wales operate within a framework of mainly UK-wide legislation. At present, little Wales-only legislation imposes burdens on business. The major part of compliance costs since May 1997 have been due to the National Minimum Wage, Working Time regulations and Parental Leave Directive.
3. Whitehall Departments are committed to the principle of good communication with each other, and especially where one administration's work may have a bearing upon the responsibilities of another administration. Regulatory Impact Assessments (*Regulatory Appraisals* in Wales) are passed to the National Assembly for comment. However, it is not always possible to single out the effect of proposed legislation on any one part of the UK. If Assembly members or officials felt that a particular proposal had a disproportionate effect in Wales then representation to the relevant Whitehall Department would be made during the consultation process.
4. It is not possible to say exactly how many regulations are in existence which impact on business. Existing regulations with the potential to affect business may originate far back in history and cross a great spread of departmental responsibilities.
5. It is possible to look at the increase in new regulations. For example, Cabinet Office figures for 2000 reveal that some 3,400 statutory instruments were made. The vast majority had no impact on business – only about 125 or 4 per cent of the total incurred significant costs on business: over half were purely local, usually concerning roads.
6. However, focussing on numbers underplays the possible costs to business of certain

regulations. Similarly, it under-estimates the benefits to business, society and the environment that can result from well-designed regulation. The real issue with regulation is not its absolute quantity, but whether the legislation is necessary and complies with the Better Regulation Task Force's principles of better regulation – transparency, accountability, targeting, consistency and proportionality.

## **Regulatory Reform Act and Wales**

7. The Regulatory Reform Act received Royal Assent on April 10. The Act replaces some of the key sections of part one of the Deregulation and Contracting-Out Act 1994. Essentially it will:

- make it easier to remove redundant legislation or legislation which imposes unnecessary burdens on business and others;
- give the Assembly a formal role in the regulatory process (in contrast to the previous position);
- Under clause 4 subsection 6 of the Act the Assembly may be granted the power to make a Sub-ordinate Provision Order. In this way the Assembly has direct influence on how the people of Wales should be regulated.

8. Whilst the Assembly cannot itself make a Regulatory Reform Order (RRO), UK Ministers must seek the Assembly's agreement to any RRO that affects the Assembly's functions and must consult the Assembly on any RRO affecting Wales.

9. Members welcomed the increased powers to remove burdensome legislation. They were however concerned that it would be exercised from England and asked Clause 1 of subsection 5 of the Bill should be amended to replace "may be made only with the agreement of the Assembly" to read "may be made only *by or* with the agreement of the Assembly."

## **Action Taken**

10. I wrote to the then Parliamentary Secretary at the Cabinet Office in February requesting that the regulatory reform order-making power be granted to Wales. Cabinet Office's response was that this power would not be extended to Wales as such a provision would, in the UK Government's view, be the equivalent of making new primary legislation and therefore would be inconsistent with the devolution settlement. I reluctantly accepted this view whilst emphasising to the Cabinet Office that the Cabinet may wish to return to this issue, particularly if it were shown that the arrangements in the Act (for consultation etc) fall short of those needed in the context of Wales.

11. A summary of the action that the Assembly has, or is taking, to promote Better Regulation

is at the Annex.

## **Annex**

### **What action is the National Assembly taking?**

1. The Assembly is committed to taking forward the Government's Better Regulations agenda in Wales. Both parties to the Partnership Government are committed to cutting back the red tape associated with regulations. This is reflected as a key commitment for Economic Development Department in *Putting Wales First*. The National Economic Development Plan consultation paper also states that the impact of red tape and paperwork on businesses must be considered. This has now been given added impetus by the recent proposals for an Enterprise Bill.

### **Consultation with Business**

2. The Assembly has a statutory duty to consult with business on its activities under section 115 of the Government of Wales Act 1998. The regulatory appraisal procedure, outlined below, also represents a useful safeguard.

### **Internet Site for Regulatory Information**

3. The Assembly are making it easier for businesses to get advice on complying with regulations through the development of an Internet site associated with the Business Newsletter: [www.businessonline.wales.gov.uk](http://www.businessonline.wales.gov.uk)

The site has had 92,000 hits in the period 16 March-18 May 2001.

### **Regulatory Appraisal**

4. In the case of Assembly general subordinate legislation there is a requirement for a regulatory appraisal to be prepared under Section 65 of the Government of Wales Act 1998. The purpose of the Regulatory Appraisal is to assess the likely costs and benefits within Wales of complying with the proposed legislation. If the appraisal reveals that the compliance costs are significant, then consultation with those affected is required and the regulatory appraisal must be published before the draft legislation is laid before the Assembly. Guidance on preparing regulatory appraisals has been published and issued to all Assembly Staff. This guidance is currently being reviewed and will be re-issued shortly.

### **Improving Enforcement - Local Business Partnerships**

5. Local business partnerships aim to establish a forum for discussion on all areas of regulation and enforcement and provide a framework to help businesses comply with regulations. Officials are keen to promote these principles. Partnerships have a key communications role to play in enabling businesses to comply with regulations and in making sure that the Assembly is aware of where businesses feel hardest hit by regulations and how they think they can be improved.

6. Out of a potential 22 partnerships, there are currently 4 partnerships in Wales (Cardiff, Pembrokeshire, Powys and Wrexham). Of these 4 only Cardiff can be considered 'active'. A seminar to promote local business partnerships was held last year. We hope to arrange a seminar event in North Wales in the near future. This is being taken forward in conjunction with the Institute of Directors. We hope to use the Institute's breakfast meeting as a regular mechanism for promoting business partnerships.

### **Review of Devolved Legislation**

7. As part of the Assembly's commitment to build an economy where businesses flourish, we are currently examining devolved legislation that impacts on business in Wales. If appropriate, we will remove red tape and lower the costs of doing business. This review should be completed by the end of October 2001.