



Constitutional and Legislative Affairs Committee

The UK Draft Deregulation Bill

Briefing

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This briefing has been produced by the Research Service for use by the Constitutional and Legislative Affairs Committee.

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Research
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This briefing provides background information to accompany the note provided by Legal Services.



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1. Introduction

The [Draft Deregulation Bill](#) (“the Draft Bill”) was published by the Cabinet Office on 1 July 2013. The Draft Bill amends or repeals 182 different pieces of legislation, removing, what the UK Government terms, “unnecessary burdens” on three key groups: businesses, individuals and civil society and public bodies. The Rt. Hon. Ken Clarke QC MP stated:

I am as strongly in favour of sensible regulation as the next man, but only where it is necessary to prevent wrongdoing and protect the public. In recent years a mountain of unnecessary legislation has been piled onto the statute book, usually introduced with the most worthy motives. This regulatory burden wastes time and money for hard-working people and ties honest businesses and public bodies in bureaucratic knots.¹

The Joint Committee on the draft Deregulation Bill, chaired by Lord Rooker, was appointed by both Houses of Parliament on 17 July 2013 to conduct pre-legislative scrutiny into the draft Deregulation Bill and the policies underpinning it. The Joint Committee comprises six MPs and six Peers (none of whom are Welsh MPs or peers connected to Wales). It will take written and oral evidence and make recommendations in a report to both Houses. The Joint Committee is required to make its report by 16 December 2013. The Joint Committee has invited interested organisations and individuals to submit written evidence as part of the inquiry. Consultation questions can be seen in Annex 1 and include the question What are the consequences of the draft Bill for the devolved administrations?²

This briefing provides background information to accompany the note provided by Legal Services on the Draft Bill.

2. The Draft Bill

The Coalition Programme for Government agreed between the Conservatives and Liberal Democrats in May 2010 stated “We will cut red tape by introducing a ‘one-in, one-out’ rule whereby no new regulation is brought in without other regulation being cut by a greater amount.”³

The UK Government has already introduced deregulatory measures which did not include legislation:

- major simplification of the registration and payment system for company charges;
- binding new rules to exempt hundreds of thousands of low risk businesses from health & safety inspections;
- the introduction of a portable Criminal Records check, which employers can view instantly online, saving the need for a new check in the majority of cases;

¹ [Cabinet Office, Government unveils Deregulation Bill, Press Release, 1 July 2013 \[accessed 2 October 2013\]](#)

² [UK Parliament, Joint Committee on the Draft Regulation Bill, Have your say on the Draft Deregulation Bill, Press Release, 31 July 2013 \[accessed 2 October 2013\]](#)

³ [UK Government, Coalition Programme for Government, May 2010 \[accessed 3 October 2013\]](#)

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- overhauling no-win, no-fee legal claims;
- increasing the qualifying period for unfair dismissal to two years;
- introducing new incentives so that roadworks on the busiest roads are done during quieter times.

In the 2013 Queen's Speech the UK Government announced that "a Bill will be introduced to reduce the burden of excessive regulation on businesses." It stated:

The Deregulation Bill would be part of the Government's agenda to reduce the burden of excessive or unnecessary regulation where primary legislation is required. The Bill will be published in draft for pre-legislative scrutiny. Many other regulations are being scrapped and reformed either administratively or via secondary legislation.⁴

The UK Government argued that the main benefits of the Draft Bill would be to reduce or remove burdens on businesses and civil society and facilitate growth; reduce or remove burdens on public bodies, the taxpayer or individuals and to tidy up the statute book by repealing legislation that is no longer of any practical use.

The Draft Bill sets out a range of measures aimed at the three groups:

Provisions affecting business include:

- scrapping health and safety rules for self-employed workers in low risk occupations;
- putting a deregulatory 'growth duty' on non-economic regulators;
- making the system of apprenticeships more flexible and responsive to the needs of employers and the economy. The Bill will remove a lot of prescriptive detail in the current legislation and clarify the employment status of apprentices;
- removing employment tribunal judges' power to issue wide recommendations to businesses brought before them.⁵

Provisions relating to individuals and civil society, include:

- reducing the period for which someone has to live in their social housing to qualify for Right to Buy from five to three years.
- scrapping fines for people who make mistakes putting out their bins.
- deregulating the showing of 'not-for-profit' film in village halls and community centres, making it easier for small charities and community groups to hold film nights
- devolving decisions on public rights of way to a local level.⁶

Provisions affecting public bodies include:

⁴ [GOV.UK](http://gov.uk), *The Queen's Speech 2013: background briefing notes*, 8 May 2013, page 19 [accessed 2 October 2013]

⁵ [Cabinet Office](http://cabinetoffice.gov.uk), *Government unveils Deregulation Bill*, Press Release, 1 July 2013 [accessed 2 October 2013]

⁶ [Cabinet Office](http://cabinetoffice.gov.uk), *Government unveils Deregulation Bill*, Press Release, 1 July 2013 [accessed 2 October 2013]

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- removing prescriptive requirements on local authorities to consult and produce various strategies, giving them more freedom from central control
- freeing schools from pointless paperwork and prescriptive central government requirements.⁷

The Draft Bill also brings forward a new mechanism which would allow Parliament to identify and remove uncontroversial legislation more speedily.

Please refer to the Legal Services note as to how these provisions affect Wales.

Explanatory Notes to the Draft Bill state:

Some provisions in the Bill deal with matters which have been devolved. It is therefore envisaged that some legislative consent motions may be needed at the appropriate time. Discussions with the devolved administrations about provisions in the Bill which relate to devolved matters are ongoing. The purpose of these discussions is to determine whether the governments in Wales, Scotland and Northern Ireland wish these provisions to be included in the Bill on introduction to Parliament.⁸

The Law Society for Scotland has published its response to the consultation on the Draft Bill. In regard to provisions about legislation no longer of practical use (Clauses 51 – 57) it states:

Clause 51 allows a Minister of the Crown to make an order for legislation to cease to apply if the Minister considers it is of no practical use. The Order can repeal or revoke the legislation or amend it.

In terms of Clause 52, before making an Order under Section 51 which contains provisions which would be within the legislative competence of the Scottish Parliament, if it were contained in an Act of that Parliament, the Minister must obtain the consent of the Scottish Ministers. Clauses 52(2) and (3) apply a similar provision to Wales and Northern Ireland.

The Society questions whether it is appropriate for a Minister acting under Section 5, where the Order would contain a provision which would be within the legislative competence of the Scottish Parliament, that the Minister should only require the consent of Scottish Ministers and not the Scottish Parliament. The lack of Parliamentary engagement in connection with such Orders which affects Scottish legislation or indeed Welsh or Northern Irish devolved legislation lacks proper democratic engagement. These concerns also extend to Clause 57.⁹

⁷ [Cabinet Office, Government unveils Deregulation Bill, Press Release, 1 July 2013 \[accessed 2 October 2013\]](#)

⁸ [Draft Deregulation Bill, Explanatory Notes, 1 July 2013 \[accessed 3 October 2013\]](#)

⁹ [Law Society of Scotland, The Draft Deregulation Bill: Response, September 2013 \[accessed 3 October 2013\]](#)

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Annex: Consultation Questions

General

1. The draft Bill covers a broad range of specific activities and a large amount of legislative provision is amended by it. Could the same result have been achieved using existing secondary legislative procedures?
2. What are the advantages and disadvantages of including specific deregulatory provisions amending existing legislation and providing additional or amended order making powers within primary legislation rather than considering them through existing deregulatory mechanisms?
3. Are the changes proposed in the draft Bill evidence-based and have any risks associated with the changes been taken adequately into account?
4. Does the draft Bill achieve its purpose of reducing the regulatory burden on business, organisations and individuals effectively and fairly?
5. Will the draft Bill generally benefit businesses by offsetting other regulatory burdens? Are there indirect impacts on other businesses from reducing regulation in specific sectors?
6. To what extent does the draft Bill benefit consumers as well as businesses?
7. How does the provision in the draft Bill affect:
 - i. protections afforded to individuals under human rights and equalities legislation?
 - ii. employment law, skills and the labour market?
 - iii. the environment, particularly in the management of waste?
 - iv. the provision of education?
 - v. the effective administration of justice?
 - vi. social, wellbeing or health inequalities?
8. Have the measures set out in the draft Bill been subject to adequate cost-benefit analysis on the basis of consultation with those affected?
9. Will any or all of the proposals have any significant economic or financial impact? Do you have any evidence of the impact that will aid the Committee in their scrutiny?

Power to disapply legislation no longer of practical use

10. Is a new “power to disapply legislation no longer of practical use” necessary or are there existing procedures which could be used to achieve the same effect?” (Clause 51)?

11. Is the meaning of the phrase “no longer of practical use” clear? In this context, what is meant by “practical”? Should it be defined and, if so, how? Will removing any of the provision proposed in Schedule 16 of the draft Bill have implications for any other areas of regulation?

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12. Are the safeguards regarding the use of the “no longer of practical use” power (set out in Clauses 54 to 56) adequate and appropriate?
13. Other deregulatory mechanisms such as Legislative Reform Orders or Public Bodies Orders have specific tests set out in the parent Act - should there be similar tests set out in the draft Bill? What should they be?
14. Are the mechanisms set out for parliamentary oversight (Clauses 55 and 56) of deregulation orders adequate and appropriate?
15. Are there other changes to deregulatory powers, procedures and parliamentary oversight which you think should have been included in the Bill and, if so, why?
16. What are the risks associated with the proposed new power to disapply legislation that is “no longer of practical use”?

A duty to have regard to the desirability of promoting economic growth

17. To what extent do the Government’s existing powers of direction over regulators already provide the ability to guide regulators towards the importance of promoting economic growth? Is this legislation necessary?
18. Will the introduction of a duty to have regard to “promoting economic growth” compromise the independence of regulators? What additional safeguards are required to ensure that the introduction of such a duty will not compromise the independence of a regulator?
19. How is a duty to have regard to the desirability of economic growth likely to affect those regulators to which it is applied?
20. Where is the introduction of such a duty likely to have beneficial effect? Where might there be adverse consequences?
21. How might the extent to which a regulator has fulfilled, or breached, the duty be ascertained?
22. How can the likely financial and economic impact of the proposed duty be assessed?

Devolution

23. What are the consequences of the draft Bill for the devolved administrations?