



Department
for Business
Innovation & Skills

Business Impact Target extension – Technical Workshop

BRE, June 2015



Agenda

- Welcome and introductions
- Objectives
- Background / Context
- Working through the Issues
- Summary and Next Steps



Objective for Today

- To take forward the operational definition of the generic categories of regulator action that are proposed to be in scope for the BIT



Context

- Deregulation is a core part of this Government's commitment to boost UK productivity and back British business, the Manifesto committed to:

"cut a further £10 billion of red tape over the next parliament"

- This £10bn figure has been provisionally agreed as the Business Impact Target (BIT)
- Government has announced that the target will include regulator activity, as well as legislation
- Government has announced that they will legislate in the Enterprise Bill to ensure the actions of 'statutory' regulators are brought within scope of the BIT
- Ministers wish to establish the principle that all national regulators will be brought into scope of the BIT.



Clarifying: Non-Statutory Regulators

- We are using the term non-statutory regulators to refer to those which are in one form or another extensions of the Secretary of State.
- The regulator may have a separate functional and administrative identity to the Secretary of State, but no separate legal identity. (i.e. they could be part of the core department).
- Their powers may be specified in statute as being exercisable by the SoS but in practice are exercised by the regulator. Similarly a statutory power may allow the SoS to appoint a person/body to carry out specific functions.
- Examples would include the **Animal and Plant Health Agency**, **Claims Management Regulation Unit** or **Insolvency Service**.



Clarifying: Statutory Regulators

- We are using the term statutory regulators to refer to those which are separate legal entities.
- They are established by statute which will typically confer on the body specific regulatory powers and functions
- They may also undertake functions specified in statute as being exercisable by the SoS but in practice are exercised by the regulator
- Examples include **OfCom**, the **Health and Safety Executive** and the **Environment Agency**.



Clarifying: Local Authority Enforcement

- Policies and practices of national regulators are being brought into scope of the BIT and deregulatory budgets. Local authorities are not national regulators.
- Where delivery / enforcement is through LAs, those impacts are still scored against deregulatory budgets, even though they relate to activity carried out by LAs. That is because the legislation (or other national policy framework) is requiring LAs to do something in a particular way.



Bringing regulators into scope

- The SBEE Act currently covers the actions of UK Ministers. As non-statutory regulators are extensions of the SofS, their actions are **already** covered by the SBEE Act.
- In order to include the actions of statutory regulators, the Government will amend the SBEE Act via the Enterprise Bill.
 - All regulators brought within scope and any excluded functions will be named in a listing order that accompanies the Enterprise Bill. We will consult on the detail
 - Intention that this should apply retrospectively
- Need to establish clear rules now on which regulator actions are to be included



Which regulator actions will be included?

- In general terms, the following actions of regulators will be included:
 - New or amended guidance
 - New or amended information obligations
 - New or amended standards
 - New or amended inspection, enforcement and licencing policies/frameworks
- The BIT will capture changes to policy and practice, not decisions on individual cases.



What is not included ?

- The SBEE Act excludes certain provisions from scope of the target, including:
 - Public Sector / Service Regulation
 - Fees and Charges
 - Temporary Measures (<12 months)
 - Tax/Tax Admin
- There are other provisions that Ministers may decide should be excluded. These include :
 - EU-derived legislation
 - Provisions relating to systemic financial risk
 - Pro-competition provisions
 - De minimis (provisions with very small impacts)
- Intention that any exclusions made will apply consistently to both enforcement and legislation.
 - The one exception relates to EU measures. We are proposing that EU legislation is out of scope but the enforcement of EU legislation is not.



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- To take forward the operational definition of the generic categories of regulator action that are in scope for the BIT

HIGH LEVEL CATEGORIES

- New or amended guidance
- New or amended information obligations
- New or amended standards
- New or amended inspection, enforcement and licencing policies/frameworks



OPERATIONAL RULES

Clear and transparent rules that can be applied consistently by departments, regulators, and the independent verification body, across a wide range of different actions and policy contexts



What we're after

- **Examples** of the interventions / actions in your areas of responsibility that may fall under the four high level categories of regulator action
- **Difficult cases** where it isn't clear how they should be treated
 - borderline cases ?
 - other categories of actions / interventions ?
- Types of intervention that should be **excluded** from the generic categories for other reasons
 - perverse outcomes ? practical feasibility ?