

**Better  
Regulation  
Task Force**

# Regulation - Less is More

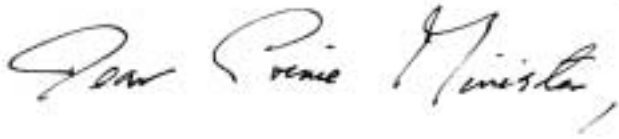
Reducing Burdens, Improving Outcomes

A BRTF report to the Prime Minister

March 2005

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Following your request to me in October, I am pleased to present you with radical but practical options for cutting the administrative costs of regulation to business. The measures we propose could deliver an outstanding return on investment for the UK - potentially a greater than 1% increase in GDP.

There are two key conclusions from our report:-

1. The United Kingdom can considerably reduce the regulatory burden on business by adopting the successful Dutch approach to reducing administrative costs. This approach involves first measuring administrative burdens and then setting a target to reduce them. The golden rule is that what gets measured gets done.
2. We need a "One in, One out" approach to new regulation, which forces departments to prioritise between new regulations and to simplify and remove existing regulations. This will complement the administrative cost reduction programme.

This approach should also be applied by regulatory bodies and in the public sector, where there is considerable scope to reduce burdens.

There are resource implications. Departments will need to switch resources from legislation to simplification without any increase in individual departmental costs. There will also need to be a centrally resourced structure to monitor the measurement of administrative burdens and to manage their reduction.

In preparing this report, we have kept in close touch with Philip Hampton, who has been asked by the Chancellor to look at reducing the inspection and enforcement costs imposed by independent regulators. Our recommendations complement those that Philip Hampton is likely to make about rationalising the structure and work of independent regulators, an objective we support.

This report sets out eight recommendations that will make a real difference to UK business and the economy. Cutting paperwork burdens and removing unnecessary regulation releases energy, promotes innovation and improves productivity. It makes sense, we strongly believe it should be done and we hope that you will agree to lead the change programme we propose.

Yours sincerely,



David Arculus  
Chair



Teresa Graham  
Sub-Group Chair



Penelope Rowlatt  
Sub-Group Chair

# 1 Executive Summary and Recommendations

## Introduction

On 18 October 2004, the Prime Minister asked the Better Regulation Task Force to look at

- *the new Dutch approach of introducing a target for reducing administrative costs to bear down on the paperwork burdens faced by business; and*
- *a “One in, One out” rule for regulation, where new regulations have to be matched by deregulatory measures.*

We have undertaken feasibility studies of these two ideas and recommend that the government adopt them. The government should introduce new procedures to measure and then reduce the administrative burdens faced by businesses and other organisations in the UK. We also want government to adopt a “One in, One out” approach to regulation - achieving a better balance between new regulations coming in and simplifying existing regulations, including removing unnecessary ones.

## The Dutch Approach to Reducing Administrative Burdens

There is a clear rationale for reducing the administrative burden that regulations impose on business. Complying with the information requirements of UK regulations is estimated to cost some £20-40 billion p.a. This can hamper business, channelling resources away from more efficient uses and act as a constraint on innovation, productivity and growth. The Dutch approach offers a way to reduce paperwork and administrative costs, saving businesses money and freeing up people for more productive activities.

The approach has three components - measurement of the burden, political commitment to a target and an organisational structure that provides incentives to achieve that target. One of the most unfortunate things about administrative burdens is that those imposing them often do not think about or cannot see the true costs which they are imposing on others. To overcome this, we need a strict way to measure those costs and a target to reduce them. We are therefore recommending that the UK follow a similar path to the Dutch, as summarised below:

### 1. Measuring the administrative burden

- Every government department should use a standardised approach to measure the existing administrative burden which it imposes on business through its regulatory activities.
- The measurement should include all the administrative obligations imposed by central government departments and regulatory agencies under both national and European legislation.

### 2. Committing to a target for reducing administrative burdens

- The government needs to agree that it will be a priority to reduce the administrative burden across the whole of government regulation and set a sensible reduction target. The Netherlands chose a target of 25% over four years, implemented with some limited flexibility across different government departments.

- The target needs to be a net target, meaning that the agreed level of reduction is achieved after taking into account any new burdens from regulations brought in by the government or the EU during the period of the target.

### 3. Setting up the necessary organisational structure

- To incentivise attainment of the target and ensure delivery, the government needs to set up an organisational structure to oversee the process. We think this requires a programme management team, an independent monitoring and assessment body and dedicated resources within each department and regulator.
- The Dutch have established an independent public body (called Actal) to act as a watchdog. Departments are obliged to send Actal details of all new legislative proposals and their calculation of the administrative burden involved. Actal reviews the calculations before the proposed legislation is sent to the Dutch Council of Ministers and to Parliament and issues an opinion. Actal also evaluates the administrative burden reduction programmes that departments are obliged to present annually to Parliament.
- The Dutch Council of Ministers considers Actal's comments when deciding whether to endorse new legislation. If the Council of Ministers approves new legislation, Actal's comments are made available to the Dutch Parliament when it debates the bill.
- In the Netherlands, the Minister of Finance takes responsibility for achieving the administrative burden reduction target and delivers a progress report to Parliament every six months. The Minister is supported by a dedicated cross-departmental team that co-ordinates delivery of the programme across government.
- Each government department needs a small unit of civil servants dedicated to supporting the reduction of administrative burden, but the focus of the effort must be within departmental teams currently working on creating new regulations.

### Why the government should adopt the Dutch approach

We recommend that the government adopt the Dutch approach to reducing administrative burdens because it offers:

- An outstanding return on investment for the UK - potentially an estimated £16 billion increase in GDP for an investment of some £35 million;
- An opportunity for government to help increase the innovation, productivity and growth of business;
- A mechanism for increasing the quality and efficiency of government through increasing the effectiveness of regulation; and
- A robust method for the government to improve its control over the flow of new regulation and a driver to reduce the burdens imposed by the stock of existing regulation.

While the Dutch approach is specifically concerned with reducing administrative burdens on business, there is no reason why a similar approach should not be taken to reduce administrative burdens on the public sector or on the voluntary and community sectors. Everyone can benefit from a reduction in unnecessary paperwork.

### Our recommendation on reducing administrative burdens

#### Recommendation 1

The Task Force recommends that, to strengthen the structure for managing the total regulatory burden, the government should:-

- **Adopt the Standard Cost Model and use it to provide a systematic measurement of the Administrative Burden in the UK by May 2006;**
- **By May 2006 (or earlier if the results of the measurement are available), set a target for reducing the Administrative Burden; and**
- **By July 2005, put in place an organisational structure and the necessary resources to facilitate measurement and target achievement. This structure must include a central co-ordination unit, a body providing independent scrutiny, and stakeholder participation.**

### “One in, One out” - Managing Regulatory Burdens

This section of our report promotes an approach that we are calling “One in, One out” as a new way to manage and reduce regulatory burdens.

“One in, One out” is an easily understood description of the way we want people who are involved in putting administrative burdens on others to think and to behave. It is about prioritising, about putting the more important things ahead of the less important and accepting that, if we try to do everything, we know that either we ourselves or those around us will not be able to cope. Regulatory bodies need to work out which are the most important regulations, which we can do without and which ones can be removed from the regulatory basket.

“One in, One out” emphasises that choices have to be made. If ministers do want new laws they will need to prioritise and drop other proposals - thus **stemming the flow**, or repeal existing laws - thus **reducing the stock**. Our report suggests detailed ways in which this approach can be implemented and regulation simplified.

Under the general heading “simplification”, we are including:

- **Deregulation** - removing regulations from the statute book, leading to greater liberalisation of previously regulated regimes.
- **Consolidation** - bringing together different regulations into a more manageable form and restating the law more clearly. By improving transparency and understanding, it should reduce compliance costs.
- **Rationalisation** - using ‘horizontal’ legislation (such as a general duty not to trade unfairly) to replace a variety of sector specific ‘vertical’ regulations and resolving overlapping or inconsistent regulations.

“One in, One out” about changing the culture of regulation. The cultural change we recommend would have regulatory reform ministers, departmental champions and the boards of individual regulatory bodies continuously questioning along the lines of, “if this one really has to go in, what must come out?” It is a simple mantra that can be easily understood. It would be up to each individual organisation to think how it can best adapt this method of questioning to its own particular circumstances and requirements.

The need for this kind of analysis of priorities becomes even more important in light of the Gershon inspired slimming down of the Civil Service. The way to manage with fewer people is to have better prioritisation of tasks or fewer tasks to perform. It may also be that having fewer regulators will help develop a focus on delivering less but higher quality regulation.

To achieve this, the government needs to make a number of important changes to the existing machinery for managing its regulatory programme.

1. The government must be more proactive in seeking out proposals for simplification. We do not accept that there are few potential candidates, or that resources are too limited to make progress on deregulation. We want simplification to be embedded into the culture of departments and become part of the “regulatory routine”.
2. The government should adopt a “One in, One out” approach to regulation. This means adopting a framework for managing regulation that provides a better balance between the creation of new measures and the simplification of existing rules and regulations. The government should cost and publicise the measures removed, as these will often contribute towards the target to reduce administrative burdens.
3. Departments and regulators should undertake more frequent and better post-implementation reviews of regulation, including reviews of how the UK has implemented EU law. Such reviews should assess whether the measure is working as expected, whether the costs and benefits are as predicted, whether there have been unintended consequences and whether there is scope for simplification. The results of these reviews should feed into future policy making and simplification proposals.

4. We want the government to set up effective and efficient mechanisms to deliver regulatory reform. Regulations that are demonstrably not working, where the costs significantly exceed the benefits or where there is no commitment to compliance or enforcement, should be revised or removed. This will require significant reform of the Regulatory Reform Act, together with a Deregulation Bill to take through important changes that require primary legislation. Both will need strong political backing and adequate resources to succeed.
5. Finally, business and other stakeholders must play their part in identifying redundant or over-burdensome regulation. All too often, complaints from business about 'red tape' are unspecific and provide no real information on which government might act. We need to see a shared commitment between government, business and other stakeholders to work together to reduce regulatory costs through simplification.

### Further work

There are two areas of further work that we would like to see taken forward. We believe that the government could and should make more use of sunseting, particularly where there is a high degree of uncertainty surrounding the implementation and likely effects of new legislation. Judicious use of sunseting could reduce the need for later simplification.

We also want to see further work on regulatory budgets. Measuring and targeting administrative burdens is a vital first step towards full regulatory budgeting. The policy costs of regulation are greater than the administrative costs but they are much more difficult to measure and methodologies for doing so are less developed. As the next step towards developing full regulatory budgets, we would like to see the government develop a methodology for assessing the cumulative costs of regulation.

## Our recommendations on "One in, One Out"

### Identifying simplification proposals

#### Recommendation 2

**The Task Force recommends that, by the end of 2005, the Regulatory Impact Unit in the Cabinet Office should, in consultation with departments, develop a robust mechanism for the submission of proposals for simplification by business and other stakeholders. The mechanism should require businesses and other stakeholders to submit evidence in support of their proposals, with options for reform. It should require departments to respond within 90 working days, setting out and justifying the course of action they propose with a time limit for delivery.**



## Promoting Simplification

### Recommendation 3

The Task Force recommends that, by September 2006, all departments, in consultation with stakeholders, should develop a rolling programme of simplification to identify regulations that can be simplified, repealed, reformed and/or consolidated.

The simplification programmes should include:

- Proposals to reduce Administrative Burdens.
- Revisiting the implementation of EU directives, particularly framework directives.

Departments should undertake post-implementation reviews of all major pieces of legislation, the results of which should feed into their rolling simplification programme.

Departments' simplification programmes should be subject to scrutiny by the Panel for Regulatory Accountability.

### Recommendation 4

The Task Force recommends that the Regulatory Impact Assessment process for major regulatory proposals should require consideration of compensatory simplification measures. Where it is not possible to include any simplification measures, there should be a reasoned explanation of why not. The guidance on Regulatory Impact Assessment should be amended to reflect this change by the end of 2005.

Clearance by the Panel for Regulatory Accountability of any major regulatory proposal should include consideration of offsetting simplification proposals.

## Mechanisms for enacting reform

### Recommendation 5

The Task Force recommends that the government should, as a matter of urgency, progress its promised review of the operation of the Regulatory Reform Act.

The review should consider how the scope of the Regulatory Reform Act can be widened to allow a greater number of reforms to be delivered by Regulatory Reform Order (RRO). Specifically it should explore whether the scope of RROs should be extended to deliver non-controversial proposals for simplification.

In addition the review should consider whether the whole process for developing an RRO and subsequent scrutiny could be more proportionate.

#### **Recommendation 6**

**The Task Force recommends that the government should provide Parliamentary time for a Deregulation Bill during the second session of the next Parliament.**

#### **Recommendation 7**

**The Task Force recommends that, by April 2006, the government should extend the use of common commencement dates to other policy areas and include implementation of simplification measures as well as new regulation.**

### **Improving the measurement of regulatory costs**

#### **Recommendation 8**

**The Task Force recommends that the government should start developing a methodology for assessing the total cumulative costs of regulatory proposals. We believe that it should be possible to have the fundamental elements of such a methodology within the next two years. At this point, the government should reassess whether full regulatory budgets, taking into account the cumulative impact of regulation, should be introduced.**

## 2 Introduction

### Reducing Burdens, Improving Outcomes

On 18 October 2004, the Prime Minister asked the Better Regulation Task Force to look at

- *the new Dutch approach of introducing a target for reducing administrative costs to bear down on the paperwork burdens faced by business; and*
- *a “One in, One out” rule for regulation, where new regulations have to be matched by deregulatory measures.*

This report responds to the Prime Minister’s request. **We call on the government to introduce new procedures for measuring and then reducing the administrative burdens faced by businesses and other organisations in the UK. We also want government to strengthen controls over the introduction of new regulation and to simplify existing regulations, including removing unnecessary ones.** If this is successful, we expect that the same approach could be used to measure and reduce administrative burdens on other parts of the economy, including the public and voluntary sectors.

### Better Regulation

Our starting point is that we need appropriate, good quality regulation, properly and fairly enforced, to improve our economic performance and quality of life. We cannot protect the environment, reduce accidents, tackle discrimination or promote a competitive, efficient economy without an appropriate framework of regulation and the necessary commitment and resources to enforce it.

Our ‘Five Principles of Good Regulation’<sup>1</sup> set out our recipe for achieving this. Before new regulations are adopted and when existing regulations are reviewed, we expect them to pass the five tests - proportionality, accountability, consistency, transparency and targeting. We also expect any regulation to have a high quality Regulatory Impact Assessment (RIA) that sets out the justification for the proposal, a consideration of alternative ways of achieving the objective, an assessment of the costs and benefits and details of how it is to be implemented and enforced. We expect businesses and stakeholders to have been properly consulted on all new proposals and their views taken into account. And we expect the Prime Minister’s Panel for Regulatory Accountability to throw out proposals likely to have a major impact on business that do not pass these key tests of quality.

As we said in our Annual Report 2004 ‘The Challenge of Culture Change - Raising the Stakes’<sup>2</sup> the government has put the right tools in place and is making progress in using them. For example:

- RIAs are now prepared for nearly all regulatory proposals likely to have a significant impact on business, charities or the voluntary sector.
- The quality of RIAs is gradually improving, although there is still a long way to go. In 2004, we referred nine RIAs to the National Audit Office (NAO) because we had concerns over their quality. The NAO has since agreed with the points we raised.

<sup>1</sup> Annex B

<sup>2</sup> [www.brtf.gov.uk/reports/ar2003entry.asp](http://www.brtf.gov.uk/reports/ar2003entry.asp)

- Many more regulatory proposals now have a 12 week consultation period, as required by the Code of Practice on Consultation. Once again, however, there remains room for improvement, especially in giving feedback to stakeholders on how their views have been taken into account.
- The Prime Minister's Panel for Regulatory Accountability is acting as a 'gatekeeper' to scrutinise and, where necessary, hold back new regulations which do not pass the tests of good regulation.
- In support of simplification, 21 Regulatory Reform Orders have been approved with a further 41 under development as part of the Regulatory Reform Action Plan. However, this has proved to be an uncertain, bureaucratic and slow process.
- Departments have started to come forward with proposals for deregulation. For example, the DTI has agreed to reduce the costs of its regulation of business by £1 billion by 2010.

These are welcome developments that we want to see adopted throughout government and by independent regulators, not as optional extras but as integral parts of the way they do business. However, while these measures may be helping to improve the quality of new regulation, **the government needs new mechanisms to reduce the administrative burden and the total quantity of regulation that businesses and others face.** This report calls on the government to put such mechanisms in place.

We have worked closely with Philip Hampton's review of regulatory inspection and enforcement, commissioned by the Chancellor in Budget 2004. The Hampton report, which complements our work, will make recommendations on improving the way in which regulations are enforced and will be published in March 2005.

### Regulatory costs and benefits

Regulation, as well as providing us with necessary protection and safeguarding our rights, also represents a significant cost for the economy. This cost is borne by government, regulators and those being regulated, including businesses, public sector organisations, the voluntary sector and ultimately tax-paying citizens. However, the OECD (1997) reported that,

*"Today, regulatory costs are the least controlled and least accountable amongst government costs. Many governments have no idea how much of their national wealth they are spending through regulation."*

Information from the United States and the Netherlands suggests that the total cost of regulation is 10% - 12% of GDP. It is unlikely to be much different in the UK, so regulation here is probably costing us around £100 billion per year. This is more than the combined annual yield from VAT and fuel duty<sup>3</sup> and not much less than the projected 2005/6 income tax yield. We need to be confident that this level of investment is being well managed, represents value for money and is delivering the outcomes we want as efficiently as possible. We do not believe that this is currently the case.

<sup>3</sup> £93 billion in 2004/5 according to 2004 budget forecasts.

Many surveys of businesses show that the costs of regulation are rising. A recent survey of medium size companies<sup>4</sup> in the UK revealed that 86% of those who responded had increased their resources for handling regulation over the previous three years. The Federation of Small Business points out in its 2004 study, 'Better Regulation is Better for Business', that small firms' regulatory costs are proportionately five times higher than those of large firms<sup>5</sup>. Small businesses tell us that they face difficulties in keeping up to date with new rules and understanding what they need to do to avoid non-compliance.

Conversely, international surveys by the OECD and World Bank continue to place the UK at or near the top of lists of good places to start and grow a business. 86% of those who responded to a 2004 survey of UK businesses by the Institute of Chartered Accountants in England and Wales (ICAEW)<sup>6</sup> said they planned to grow their business in the next two years.

Without further information on total regulatory costs and benefits, it is difficult to draw any general conclusion about the link between the UK's economic performance and our regulatory environment. Nevertheless, if Britain is to maintain its position in an increasingly competitive world, the government and regulators need to ensure that they do not impose unnecessary regulatory costs on citizens, businesses and the public sector. This will require the government to understand and measure regulatory costs in a more sophisticated and consistent way than at present. This report sets out how and why this should be done.

### What do we mean by the cost of regulation?

Regulatory costs are often divided into policy costs and administrative costs. Policy costs are those costs directly attributable to the policy goal. Administrative costs are all those costs associated with familiarisation, record keeping and reporting, including inspection and enforcement. For instance, if a new regulation requires employers to reduce their employees' exposure to a particular chemical in the workplace, the policy cost might include buying new equipment such as local exhaust ventilation or personal protective equipment and regular checking that the equipment is in good working order. The administrative costs would include finding information about the regulation and what is required for compliance, keeping records of exposure levels and equipment checks and supplying that information to the authorities. **On average, administrative costs are thought to be around 30% of the total costs of regulation.**

When government and regulators talk about 'Red Tape', they are usually referring to the administrative costs of complying with regulation. But those being regulated are primarily interested in the total cost of regulation as it affects them and do not always distinguish between policy costs and administrative costs. They may then label the total cost of regulation as "red tape" costs. This confusion may account for some of the wide variation in figures reported as the "cost of regulation in the UK".

<sup>4</sup> p. 9 CBI - Grant Thornton *Mid Corporate Growth Survey*, 2004

<sup>5</sup> Quotes the OECD report *Business views on Red Tape* (2001) and cites similar studies. Small firms are defined as those with less than 20 employees, large firms with 50 - 500.

<sup>6</sup> ICAEW Enterprise Survey - Unlocking the Growth Potential of UK Business (November 2004)

## Reducing regulation and its costs

There is considerable scope to remove and simplify some regulations and significant areas where paperwork and compliance costs could be reduced. In this study, we make proposals that would, if adopted, deliver a real and sustained reduction in the regulatory burdens faced by business. There are two parts to our approach, set out in the following chapters.

**Chapter 3** proposes a methodology to measure and reduce administrative burdens on business. It needs government and business to work together to calculate the existing administrative costs (the baseline) and then the likely impact of all proposed new regulations on that total. This requires government to adopt a consistent way of measuring the administrative costs of regulation and we are recommending that government follow the Dutch “Standard Cost Model”.

We also want government to follow the Dutch example and commit to a target to reduce the administrative costs of regulation on business. We need to have a target, with a timescale for achieving it, to make the Dutch approach live and ensure that measurement leads to administrative burden reduction. While many of the existing processes and bodies can be used to manage the Dutch approach, additional resources will need to be dedicated to it to make it work.

**Chapter 4** promotes an approach that we are calling “One in, One out” as a new way to manage and reduce regulatory burdens. “One in, One out” is an easily understood description of the way we want people who are involved in putting administrative burdens on others to think and to behave. Regulatory bodies need to work out which are the most important regulations, which we can do without and which ones can be removed from the regulatory basket. “One in, One out” emphasises that choices have to be made. If ministers do want new laws they will need to prioritise and drop other proposals - thus **stemming the flow**, or repeal existing laws - thus **reducing the stock**. Our report suggests detailed ways in which this approach can be made to work.

**We want government to “raise the price” of bringing in new regulations and to commit to a sustained programme to reduce the cumulative regulatory burden on business - without, of course, removing essential protection.** We believe that making the costs of regulation more explicit - measuring the costs and understanding who pays for what - will improve the quality of regulation and avoid too many unintended consequences.

Taken together, these proposals will:

- Provide a regular update of total administrative costs to business compared with the 2005 baseline;
- Provide a more consistent measure of the costs of new regulations in advance of their introduction;
- Raise the bar for the introduction of new regulations;
- Provide ministers and officials with a powerful incentive to bring forward simplification and deregulation measures and a means to deliver them; and

- Lead, through the setting and achievement of an administrative burden reduction target, to a fall in the regulatory costs for business over the period of operation.

### A partnership approach

When businesses complain about “too much regulation”, they are often referring to several different issues. Surveys have identified the main concerns:

- There is too much new regulation arriving so fast that businesses cannot cope;
- Businesses are not aware of new regulations, although the DTI’s [www.businesslink.gov.uk](http://www.businesslink.gov.uk) website has the potential to help a lot;
- Businesses do not know what they need to do to comply and often receive conflicting advice and guidance; and
- The cumulative burden is just too much, especially for small businesses that do not have the benefit of dedicated staff to monitor new requirements and manage compliance.

While any one piece of legislation might be justified, the cumulative effect can be unmanageable in time and cost terms. We need more tools and a stricter framework to:

- Limit the number of new regulations that impose costs on business;
- Improve awareness of regulations and bring information together in one place in an accessible manner;
- Rationalise the guidance available and ensure that inspection is risk-based and proportionate;
- Understand and manage the cumulative burden by measuring the existing administrative costs baseline and only adding to this when justified through a robust and transparent cost-benefit analysis, as the Dutch have done;
- Control the cumulative burden by making sure that any new regulations are balanced or offset by compensatory simplification and deregulation measures (“One in, One out”);
- Ensure that where regulations are adopted, including European regulations, they are implemented in ways that minimise costs and burdens on those being regulated.

Making this happen requires government departments, independent regulators, business and other stakeholders to work together to identify and solve problems. This means that:

- Those being regulated need to participate as full partners, providing accurate information on regulatory costs and benefits and identifying candidates for simplification and deregulation.
- All regulators (central government, independent regulators and local authorities) need to commit to reducing regulatory burdens and achieve a better balance between the flow of new regulation and simplifying the stock of existing regulation. Regulatory burdens, like central government targets, cannot simply keep growing. Regulators need to prioritise new regulatory proposals, taking much more account of the likely costs to those being regulated. Government

(including the Prime Minister's Panel for Regulatory Accountability) also needs to commit itself to taking potentially difficult decisions to delay, abandon or sunset regulatory proposals where costs are not properly justified in relation both to benefits and to the cumulative burdens on business.

This report shows how this can be achieved.

Taken together, our eight recommendations form a package that will enable the government and regulators to manage the flow and stock of regulation more effectively and to improve its quality, with potentially significant benefits to our economy and competitiveness.



# 3 Reducing Administrative Burden

## Why Administrative Burden is an issue

There is a clear rationale for reducing the administrative burden that regulations impose on business. Complying with the information requirements of British regulation is estimated to cost some £20-40bn<sup>7</sup> p.a. This can hamper business, channelling resources away from more efficient uses and acting as a constraint on innovation, productivity and growth. The government has agreed to some reductions in administrative burdens, such as employers no longer having to process employee tax credits and Defra's recent announcement that it will reduce the administrative burden it places on business by at least 25% over the next five years.<sup>8</sup> Independent regulators also place administrative burdens on business and we expect that Philip Hampton's report<sup>9</sup> will set out ways that these can be reduced. Nevertheless, the government has not addressed administrative burdens systematically. Since 2000, it has been a requirement that RIAs set out implementation costs, but in practice very few of them do so coherently. As administrative burdens have not been consistently separated out from other costs and highlighted, insufficient attention has been paid to keeping them under control.

Administrative burdens are economically significant. The Dutch estimated that their administrative burden in 2002 was €16.4 billion or 3.6% of GDP<sup>10</sup>. They also estimated that, by meeting their target of reducing administrative burdens by 25% by the end of 2006, GDP in the Netherlands would increase by 1.5% over the medium term<sup>11</sup> as the time and money saved is redeployed in more productive parts of the economy. These conclusions are similar to those in Denmark, where calculations suggest that for every 1 billion Kroner reduction in administrative burdens, output increases by 2.7 billion Kroner.<sup>12</sup>

## The Dutch approach to Administrative Burden

The Dutch define the administrative burden on business (Administrative Burden) as,

*“the costs imposed on businesses when complying with information obligations stemming from government regulation.”<sup>13</sup>*

Examples of information obligations are filling in a VAT return, providing shareholders with the information required by law under the Companies Acts and keeping a record of all emissions made under an environmental permitting regime. Information obligations are not just the information business has to provide to government but include legal obligations government puts on business to supply information to others such as shareholders and customers.

<sup>7</sup> UK GDP was £1,042 bn in 2002 so, were the British Administrative Burdens identical to the Dutch, the Dutch approach might assess them as £38 billion. Were they to be slightly lower they might equate to the £30 billion we cite in the introduction to this report.

<sup>8</sup> Defra 5 year strategy - *Delivering the Essentials of Life*

<sup>9</sup> Hampton Report - Final report due in March 2005.

<sup>10</sup> Dutch GDP was \$418bn in 2002 according to the World Bank - Administrative Burdens equalled 3.6% of GDP.

<sup>11</sup> April 2004, Dutch Bureau for Economic Policy Analysis.

[www.administratievelasten.nl/default.asp?CMS\\_TCP=tcpAsset&id=A4FB469B2A3B473AB81F2340E332C3B8](http://www.administratievelasten.nl/default.asp?CMS_TCP=tcpAsset&id=A4FB469B2A3B473AB81F2340E332C3B8) 1.5% is the more conservative assumption made with respect to the effect on GDP over the medium term. The more aggressive assumption made in the paper estimates that GDP would increase by 1.9% compared with the status quo.

<sup>12</sup> 8th October 2004 speech by Deputy Director Betina Hagerup, Danish Commerce and Companies Agency.

<sup>13</sup> P. 8 August 2004 paper *The Standard Cost Model* produced by the international working group on Administrative Burdens. [www.eogs.dk/graphics/Byrdebarometer/ManualSCM.pdf](http://www.eogs.dk/graphics/Byrdebarometer/ManualSCM.pdf)

Administrative Burdens are only part of the total cost of regulation. The Dutch approach excludes consideration of policy costs. Research from the US shows that administrative costs on average represent around 30% of total regulatory costs<sup>14</sup>. The difference between administrative and policy costs is shown by the Dutch regulation requiring that staff have a window in their workplace. The cost of providing staff with a window is a policy cost while reporting that the firm has complied is an Administrative Burden. With some regulations, the differences between policy and administrative costs may be less clear cut but the Standard Cost Model provides a means of distinguishing between them, which we endorse.

### **Background to the Dutch approach**

In the early 1990s, the Netherlands realised that, as an international economy focused on trade, it was critical that its regulatory climate enhanced its international competitiveness and the prosperity of its citizens.

Wholesale removal of regulation would have been politically controversial, as deregulation is perceived by some parts of the Dutch political spectrum to put necessary safeguards at risk. Against this background, in 1994 the Dutch started to focus on reducing the Administrative Burden as a means of improving the quality of government and reducing unnecessary regulatory costs. Their approach targets the bureaucracy put in place to implement regulations. It does not question the policy objectives of the regulations themselves, but seeks to ensure that the way the policies have been implemented is such that the policy outcomes are achieved with the minimum of bureaucracy.

At first, the Dutch Government set an Administrative Burden reduction target of 10% between 1994 and 1998. However, without the measurement methodology and monitoring structures which they have since developed, this target was hard to manage. In 2003, the Dutch re-energised the process and corrected certain defects, such as a lack of ministerial commitment and accountability. At this point, the government demanded an additional 25% reduction in Administrative Burden between 2003 and 2006.

We were initially sceptical about what is happening in the Netherlands but our investigations have turned this scepticism into enthusiasm. The Dutch approach appears to be working. They are currently implementing plans to reduce Administrative Burden by an estimated 18%<sup>15</sup> and, in the Spring of 2005<sup>16</sup>, intend to publish plans for further reductions through which they expect to meet the 25%<sup>17</sup> reduction target.

<sup>14</sup> P. 3 *Making Sense of Regulation - 2001 Report of the US Office of Budget Management to Congress*

<sup>15</sup> Gross (i.e. This does not take into account new regulations which have been introduced during the burden reduction period).

<sup>16</sup> To be sent to Dutch Parliament on 14th March 2005.

<sup>17</sup> 25% is a net target (i.e. It takes into account the costs of new regulation introduced since 2002)

## How the Dutch approach works

The Dutch approach to achieving burden reduction has three components - measurement of the burden, commitment to a target and an organisational structure to achieve that target. The following describes how these are implemented in the Netherlands.

### 1. Measuring the Administrative Burden

- Every department used the Standard Cost Model to measure the Administrative Burden which is imposed on business through its regulatory activities.
- This measurement includes all the administrative obligations imposed by central government departments and regulatory agencies under both national and European legislation.

### 2. Commitment to a target

- Dutch ministers agreed that one of the priorities for their term in office was to reduce the Administrative Burden across the whole of government regulation and they set a reduction target of 25%.
- The target is a net target, meaning that the 25% reduction must be achieved after taking into account any new burdens from regulations brought in by the government or the EU during the period of the target.
- The Dutch aim to achieve the target over four years with the reductions delivered by the end of 2006.

### 3. Organisational structure

- In order to incentivise the attainment of the target, the government set up an organisational structure to oversee the process.
- The Dutch Minister of Finance takes responsibility for achieving the Administrative Burden reduction target and delivers a progress report to Parliament every six months. The Ministry of Finance co-ordinates the programme with a dedicated cross departmental team - The Interdepartmental Project Directorate for Administrative Burdens (IPAL).
- The government established an independent public body called Actal (the Dutch Advisory Board on Regulatory Burden)<sup>18</sup>. Departments are obliged to send Actal details of all new legislative proposals, including a calculation of its Administrative Burden. Actal reviews the Administrative Burden calculation before the proposed legislation is sent to the Dutch Council of Ministers and to the Dutch Parliament. Actal also evaluates the Administrative Burden reduction programmes that all departments are obliged to present annually to Parliament and makes its evaluation public.
- The Council of Ministers (Dutch Cabinet) considers Actal's comments when deciding whether to endorse a new piece of legislation. If the Council of Ministers approves the new legislation, Actal's comments are made available to the Dutch Parliament when it debates the bill.

<sup>18</sup> Actal's website is [www.actal.nl/](http://www.actal.nl/)

- Each department has set up a small unit of civil servants dedicated to supporting the reduction of Administrative Burden in that department.
- Each department has set up a joint commission of senior civil servants and business representatives to scrutinise Administrative Burden reduction proposals.

In the following sections, we review each aspect of the Dutch approach and conclude that measurement, targeting and organisational structure are all vital components to the success of the Administrative Burden reduction process. Each component has resource implications (See Annex C for more details).

### 3.1 Measuring the Administrative Burden

Measuring the Administrative Burden caused by every regulation is a significant undertaking. In this section of the report we describe how the Administrative Burden has been measured in the Netherlands using the Standard Cost Model.

#### The Mechanics of the Standard Cost Model

Each information obligation associated with every regulation is separately identified. The regulatory burden imposed by each information obligation in euros per year is then estimated using the formula

$$N \times W \times T$$

N = the number of businesses affected by the obligation

W = the hourly tariff of those involved in meeting the information obligation (formalised into low, medium or high)

T = the number of hours taken to meet the administrative obligation in a year

Multiplying the time taken by a business to fulfil the information obligations of a regulation by the appropriate hourly tariff and by the number of businesses affected allows the aggregate cost to business of meeting the information obligations of that regulation to be estimated.

For example, 1,000 farmers (N) might spend an average of five hours per year (T) informing Defra of notifiable diseases under section 88 of the Animal Health Act 1981. If the average cost of a farmer's time were £50 per hour (e.g. medium), the estimated Administrative Burden to business of that section of the Animal Health Act would be £250,000 p.a.

The Standard Cost Model provides a stylised estimate of the Administrative Burden. It does not pretend to measure the true level of the Administrative Burden. Rather, it produces a standardised set of numbers which when aggregated together gives the government an overall picture of regulation, thereby enabling it to identify actions that will reduce the burden.

## The measurement process

First, each department needs to develop a database of its stock of regulations that require information from business. This involves scanning statute and case law and speaking to independent regulators associated with the department to identify and record the statutory codes which they enforce. The Netherlands has had such a database in place since 2002.

Once the database is in place, the measurement process can begin. In the Netherlands, this work was partly outsourced to consultants to avoid overstressing civil servants and because consultants found it easier to provide an impartial view of the Administrative Burden.

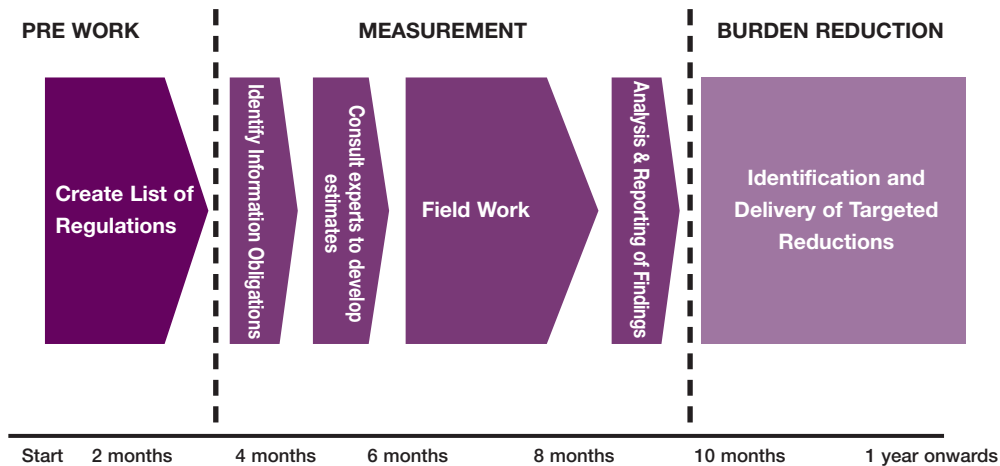
The measurement process has several stages.

1. The consultants identify all the information obligations and underlying administrative actions resulting from the regulations in the database.
2. The consultants check information sources such as national statistics and speak to departmental experts and others outside government (such as trade associations) to clarify information obligations.
3. Through fieldwork, the consultants interview at least three companies affected by each regulation to record the time each information obligation takes and the cost of the staff involved (coded high, medium or low)<sup>19</sup>. The Dutch consultants selected representative companies to interview for each regulation and conducted further interviews if there was a wide range of results for the same regulation. Where complex regulations affected different businesses in different ways, companies were classified into groups and representative companies from each group interviewed. To minimise the number of company visits, most companies were asked questions about more than one regulation.
4. The results are analysed and tested with departments and trade associations prior to being reported and included in the administrative cost baseline.

This process gives each department a baseline measurement of the Administrative Burden imposed by the stock of regulation for which it is responsible.

<sup>19</sup> The technical details of the measurement process are set out in the August 2004 guide to the Standard Cost Model, developed by the International Working Group on Administrative Burdens. It is available at [www.eogs.dk/graphics/Byrdebarometer/ManualSCM.pdf](http://www.eogs.dk/graphics/Byrdebarometer/ManualSCM.pdf)

## The Dutch Timeline for Implementing the Standard Cost Model



**It is important to include all regulations imposed by government and independent regulators.** An alternative might be to focus just on measuring and reducing the burden of the most costly regulations, for example the top ten. While this approach might appear to offer a quicker route to big reductions, we would not recommend it because:

- Government could not be certain what the top ten burdens are without measuring the others. The Dutch Government found that the level of business protest about a burden did not provide an accurate indication of its cost relative to other regulations.
- The Dutch found that a majority of the top ten most burdensome regulations related to tax and accounting. Focusing on these would mean that only the DTI, Treasury and Revenue departments were involved fully in the measurement and reduction process. The culture change required across government would not happen if some departments remain untouched by the process.
- There may be more potential to reduce the Administrative Burden of lesser regulations than to reduce those such as VAT, especially where many aspects are determined by European law. The Dutch Government said that it found no direct correlation between the size of the burden a regulation causes and the ease with which that burden might be reduced.

Another approach could be to measure only the burdens arising from the flow of new regulations and ignore the cumulative Administrative Burden of the existing stock. This would fail to achieve our objectives because:

- Without measuring the stock, departments will not have an overall picture of their Administrative Burdens, making it impossible for them to devise strategic plans to reduce burdens systematically.

- b. When bringing in regulations, government would not be in a position to integrate their administrative burdens efficiently within existing reporting requirements.
- c. Without measuring the stock, a target for reduction could not be set and the Dutch approach to reduction would not be possible. Measuring the stock and including all regulations, departments and regulators in scope is intrinsic to the Dutch system - and to the way we believe it should be implemented in the UK.

The British Government already tries to control Administrative Burden when new regulations are introduced. We have been asked to evaluate the Dutch approach because the current system, while useful, is proving insufficient as a check on new burdens.

### **Administrative Burden - the link with total regulatory costs**

Dutch consultants told us that about half of the suggestions they received from business for reducing burdens involved changes in policy rather than simply Administrative Burden reduction. Such suggestions would provide useful material for departments preparing simplification proposals or ideas for a Deregulation Bill, as we recommend in the next chapter. Both the Dutch and the Danes have said that an added benefit of carrying out the measurement exercise was that it encouraged officials to take a fresh and systematic look at regulations, highlighting problems and potential improvements to policy and implementation in general, rather than just Administrative Burden reduction.

### **Summary**

Measurement of the Administrative Burden in the UK using the Standard Cost Model will require additional resources<sup>20</sup> and a firm commitment from the government. Dutch business told us that the process of measurement had led to a culture change in how Dutch departments interact with those they regulate, improving the efficiency and quality of government actions.

By allowing each department to review and find reductions across their entire regulatory stock, the Standard Cost Model facilitates and inspires Administrative Burden reduction. Without such measurement, the Dutch approach does not work.

## **3.2 Commitment to a Target**

Setting a target is a political decision because it requires political agreement and leadership if it is to succeed. Here we discuss some issues around having a target and recommend that the government set one.

Our discussions with the Dutch have convinced us that, unless the government sets a target and makes it a political priority to meet it, reducing the Administrative Burden will not receive sufficient attention for progress to be made. A target encourages departments and regulators to innovate and to do things they would not normally do, such as engaging with others in joint projects to reduce burdens. Reducing Administrative Burdens requires sustained effort and a target will help ministers and departments to keep focused over the medium to long term.

<sup>20</sup> See Annex C

While measurement should, of itself, raise awareness of Administrative Burden and generate ideas for its reduction, without political agreement to a target and an appropriate organisational structure to focus attention, there is a danger that reducing the burden will not happen because it will not receive sufficient priority.

Several countries of different political complexions have found that a target brings beneficial discipline. For example, Denmark, Poland and Hungary have centre left governments, Estonia has a centrist government and Norway and the Netherlands have centre right governments. All have adopted targets.

### Target level

Ministers need to decide the level of the UK's target and they will be in a stronger position to set a realistic target once much of the measurement is complete. Nevertheless, they should set a target within a year of accepting our recommendations to ensure that momentum is maintained.

It is not clear that the UK currently has such a low Administrative Burden that we would find it significantly more difficult than the Dutch to meet the kind of target that they have adopted. The Dutch system of government may have been more bureaucratic than ours in the early 1990s, but a programme to reduce Administrative Burden in the mid 1990s had delivered considerable improvement by the time the current Administrative Burden reduction target of 25% was set in 2003.

There is an obvious danger that setting too high a target could encourage game playing and be an incentive to focus on headline announcements and innovative ways of measuring rather than delivering real reductions. To avoid this, the government needs to use the target as an opportunity to reinforce the better regulation culture change that we called for in our Annual Report 2004<sup>21</sup>. For example, it needs to offer meaningful rewards to civil servants for making progress against the target.

### Target scope

From the point of view of business and the regulated community, Administrative Burdens arise both from government departments and independent regulators. **It is therefore very important that both government departments and independent regulators are included in the scope of the target if any meaningful reductions are to be made in the overall Administrative Burden.**

### Target variation

Some government bodies, such as the Office for National Statistics, already pay more attention than others to the burdens they place on business. As a result, they may have less scope to reduce burdens than others and it can be argued that these bodies would be penalised relative to other departments were a flat rate target to be imposed across government. We raised this with the Dutch.

IPAL, which co-ordinates the Dutch Government's target from within the Ministry of Finance, told us that it presses all departments to look for 25% reductions. However, as the process develops, they plan to apply

<sup>21</sup> "The Challenge of Culture Change: Raising the Stakes" - BRTF Annual Report 2004 available at [www.brtf.gov.uk/docs/pdf/brtftext04.pdf](http://www.brtf.gov.uk/docs/pdf/brtftext04.pdf)



the target flexibly across government, taking into account a ministry's past achievements and the proportion of their regulation which is European. IPAL focuses on keeping up pressure to meet the government's overall target, not on each department reducing its burdens by exactly 25%.

In theory, targets could be set in various ways to reflect different priorities. Setting targets for each sector might be meaningful for businesses operating in clearly delineated sectors, but the lack of clear accountability would make them unlikely to succeed. Setting targets by department would ensure that there is clear accountability for meeting them. Until a department has made a sincere attempt to achieve a target, it cannot be clear what the level of that department's target should be.

We believe that the British Government should set an overall target and enforce it flexibly, so that differences in departments' potential to reduce regulation can be taken into account as they emerge.

### **The European challenge**

About 50% of new Dutch and British regulations now come from the European Union and we cannot unilaterally stop the flow of these regulations. European legislation makes it harder to meet any national burden reduction target than would be the case were all laws to be created nationally, but the Dutch believe that they can achieve their target despite European legislation.

There is a distinction between European Regulations, which are directly applicable with little national discretion, and European Directives, which give countries flexibility on how they are transposed into domestic law. In principle, Directives provide more opportunities for simpler and less burdensome implementation. By reforming the domestic application of Directives, including removing any domestic additions to the core EU requirements, we could unilaterally reduce some aspects of the Administrative Burden, without the need for renegotiation at a European level.

The Dutch gave priority to reducing Administrative Burdens during their Presidency of the European Council in 2004 and secured commitments to reduce the Administrative Burdens arising from European law. The UK has supported the Dutch efforts and, as part of the Six Presidencies' Initiative<sup>22</sup>, is committed to continue the campaign to reduce the Administrative Burden coming from EU legislation.

It is important that EU legislation is developed in ways that support rather than undermine domestic commitments to reduce Administrative Burdens. The EU also needs to make faster progress with simplifying the existing stock of EU law and so reduce its associated burdens. The Task Force has set out the case for simplifying EU law in its December 2004 report on European Simplification, "Make it Simple, Make it Better"<sup>23</sup>. We intend to continue supporting the EU better regulation agenda through publishing reports on European Consultation and Alternatives to European Regulation later this year.

### **Timescale**

Targets need to have a timescale. The timescale for achieving the Administrative Burden reduction target needs to be short enough to ensure that government and regulators remain focused on it but not so short

<sup>22</sup> Ireland, Netherlands, Luxembourg, UK, Austria, Finland

<sup>23</sup> [www.brtf.gov.uk/reports/simplifyeulaw.asp](http://www.brtf.gov.uk/reports/simplifyeulaw.asp)

as to rule out complex, cross-government projects which could reduce burdens significantly. Four to five years is probably appropriate.

The Dutch have given themselves four years, until the end of 2006, to reduce their Administrative Burdens by 25%. It is noteworthy that they do not expect to implement most of their plans until the final two years of the programme. This suggests that finding and implementing high quality projects to deliver significant reductions takes time and that there is always a risk that planned reductions will not be implemented on time.

The Dutch told us that while cutting obsolete Administrative Burdens is a relatively quick process, simplifying the administration of current regulations takes more time and implementing IT projects to deliver savings across departments takes the most time.

#### ***Case Study - Reducing Controls Assurance Burdens in the NHS***

*The NHS Controls Assurance project required NHS Trusts to provide evidence that they were doing their reasonable best to protect patients, staff, visitors and others against risks of all kinds.*

*Twenty-two Controls Assurance Standards existed, bringing together all the statutory and mandatory requirements for NHS organisations. Standards had between 12 and 31 criteria and could have five or more auditable examples of compliance. There was overlap across the 22 standards and between the guidance issued by Arms Length Bodies (ALBs). NHS staff frequently felt that the Standards lacked flexibility and were inappropriate and disproportionate for some NHS organisations.*

*The Department of Health (DH) invited the Regulatory Impact Unit (RIU) within the Cabinet Office to review the Controls Assurance Standards and the administrative process that had developed around them<sup>24</sup>. NHS staff and stakeholders identified the key problems and possible solutions. These included scrapping Controls Assurance Standards and incorporating key elements from them into the new Standards for Better Health, introducing Gateway arrangements and a passporting system for information requests. These changes will reduce the reporting burden making 350 staff available at the front line for other work. We would like to see similar measures in other spheres of the public sector.*

#### **Achieving the target**

There are different ways to reduce Administrative Burdens, including:

1. Removing obsolete regulations which no longer address current policy objectives<sup>25</sup>;
2. Simplifying regulations<sup>26</sup>;
3. Increasing data sharing and improving information management so that government and regulators only ask for information once; and
4. Helping businesses comply with regulations, saving them time through presenting the requirements in a user-friendly way.

<sup>24</sup> [www.cabinetoffice.gov.uk/regulation/pst/projects/mad/contass.asp](http://www.cabinetoffice.gov.uk/regulation/pst/projects/mad/contass.asp)

<sup>25</sup> The recommendations made in Chapter 4 of this report should make simplifying regulations and removing obsolete regulations easier in the UK.

<sup>26</sup> Ibid

We have found good projects already underway in many of these areas.

- The Office for National Statistics has a limit on the total cost its surveys can impose on business and regularly measures and reviews its existing Administrative Burden to stay within that limit.
- Customs and Excise allows small firms with a good VAT record to send in consolidated annual returns instead of quarterly returns. This could be used more widely, as the Dutch have found it is a good way to reduce burdens.
- Companies House pre-prints all the information it holds on each company onto the annual return and sends it to the company before the submission deadline. Companies only need to check the details, make any changes and return the form. This can be done on-line.

These ideas and others listed in Annex F could be used in other areas of government and by independent regulators to reduce Administrative Burdens.

The Dutch have found that departments and regulators need to refocus and reprioritise existing work in order to free up the resources needed to implement Administrative Burden reduction projects. However, because Administrative Burden reduction promotes good governance, the Dutch have also found that it saves the government money over time.

### **Measurement of the outcome**

In 2007, the Dutch will measure the Administrative Burden again to check that they have met their target. However, that is not the end of the story. Even after an initial target is met, they will need to continue to measure the additional burdens of new regulations and ensure that these are compensated by reductions elsewhere, otherwise gains will easily be lost. This is the rationale behind a “One in, One out” approach to managing regulation.

### **Summary**

We need to have a target, with a timescale for achieving it, to make the Dutch approach work here and to ensure that measurement leads to Administrative Burden reduction.

## **3.3 Organisational Structure**

Measuring and setting a target are two of the three essential aspects of the Dutch approach. Neither of these will work without an organisational structure to incentivise achievement of the target. We describe the Dutch structure below and recommend that the government establish an organisational structure which achieves the same objectives.

## Involvement of ministers

The Dutch approach requires political commitment at the highest level in order to drive delivery of the target. The Dutch told us that their system only works because senior ministers have made the burden reduction target one of the government's top three priorities and because the Minister of Finance is responsible for delivery and prepared to intervene when departments fail to produce adequate burden reduction proposals.

The Dutch approach alters the policy making process. The target cannot be achieved simply by officials making technical adjustments to regulations. Ministers need to engage actively in the process. For example, the Dutch system often requires both primary and secondary legislation to reduce Administrative Burdens and ministers need to commit time and energy to taking the legislation through Parliament. Dutch tax and social security legislation has been reformed in this way. Ministers have also worked to ensure that European legislation has a minimal Administrative Burden.

## Central co-ordination

The IPAL unit in the Ministry of Finance co-ordinates the Dutch burden reduction effort in co-operation with the Ministry of Economic Affairs. The Dutch informed us that there would be much less activity without this central co-ordination unit. IPAL work includes:

- Checking on the performance of consultants undertaking baseline measurements to ensure that the best value is delivered;
- Brokering the intelligent allocation of the cross-government target between departments;
- Checking that responsibility for reducing burdens lies with the department with control over policy;
- Ensuring common standards across departments;
- Driving the delivery of complex cross-departmental projects to reduce burdens;
- Ensuring the exchange of best practice;
- Monitoring progress against the target; and
- Ensuring a strong central minister is able to hold other ministers to account for the delivery of sufficient reductions.

The two most likely places to put the British central co-ordination function are the Cabinet Office and HM Treasury. The Cabinet Office Regulatory Impact Unit offers the opportunity to make use of existing better regulation expertise, existing networks with other departments on this agenda, close links with Number 10 and the spending review process, as well as making best use of the Panel for Regulatory Accountability for monitoring progress. Location in the Treasury would offer even closer contact with the Treasury Spending Directorate setting departmental spending limits - allowing for integration of Administrative Burden reduction with the budget cycle.

## **Actal**

The Dutch experience also shows that it is essential to have an independent body overseeing the Administrative Burden reduction effort. In the Netherlands, this is Actal.

Actal is an independent non departmental public body which monitors, advises and encourages the Dutch Government in its efforts to reduce the Administrative Burden on business. It has a three member Board (drawn from politics, business and academia) and a small secretariat. It acts as a watchdog and facilitator, giving strong backing to the government's target to reduce Administrative Burden by 25%. It focuses solely on the Administrative Burden the regulation will cause, not on the merits of the policy. Before a minister takes a proposal to the Council of Ministers, Actal discusses the regulation with the relevant department and provides a written opinion on whether the department has done enough to minimise the Administrative Burden of the regulation. Ministers must present these opinions when the Council of Ministers considers the proposed regulation. If the regulation goes to the Dutch Parliament, Actal will publish the advice it provided to the minister.

If Actal concludes that a minister has not made sufficient effort to reduce the Administrative Burden caused by a new regulation, it can brief those outside the government (including the media) to raise public awareness of the issue. Conversely, it can highlight any good work by ministers and officials in reducing Administrative Burden.

Actal also provides the Dutch parliament with a regular report on the government's progress with Administrative Burden reduction.

Actal has also been proactive on issues which might inhibit progress on Administrative Burden reduction. For example, many in the Dutch Government thought data protection a reason for not sharing data. Actal reached agreement with the Dutch data protection and privacy authorities on workable models for data sharing which will enhance privacy by improving data handling while, at the same time, allowing for data sharing between ministries.

## **The Council of Ministers and Dutch Parliament**

The Council of Ministers scrutinises all proposals for new legislation and has access to Actal's opinion on a proposal when deciding whether to accept it. The Minister of Finance will ask the responsible minister how a proposal fits with the Administrative Burden reduction target.

When the Council of Ministers feels that a new initiative should be passed, even though Actal argues that it increases the Administrative Burden, it can and does ignore Actal's advice and justifies its decision to implement the regulations (e.g. counter terrorism legislation) to the public. The Dutch Parliament receives a six monthly report from the Finance Minister on the government's progress with burden reduction, enabling it to hold the government to account.

## Stakeholder participation

Whereas the Dutch told us that most of the ideas for burden reduction come from departments, they acknowledge that they have been greatly assisted by the formal involvement of businessmen and women sitting on commissions in each ministry. These joint commissions make and scrutinise Administrative Burden reduction proposals, checking that they will really reduce burdens rather than simply change processes. The commissions are composed of senior civil servants and business representatives, including trade associations. We understand that the representatives of companies give especially valuable insights into the impact of regulation on the ground.

The British Government already has a range of bodies such as the Vehicles Industry Policy and European Regulation (VIPER) Group to allow industry to make constructive suggestions on proposed regulations. Nevertheless, given that Administrative Burdens are not restricted to businesses, we believe that Departments will also need to involve wider groups of stakeholders in planning Administrative Burden reductions.

## Displacing the burden ?

We were concerned that efforts to reduce the burden on business might lead to consumers and/or government taking on the burden instead. The Dutch told us that, in general, the process of simplifying and reviewing regulations reduces government costs as well as business costs. Further, in the Netherlands, consumer representative bodies have not opposed the programme and the Dutch are now extending it to include citizens as well as business.

It is possible that a vigorous drive to reduce Administrative Burdens might lead to burdens being displaced from administrative costs to policy costs. Theoretically this might lead to departments choosing less economically efficient ways of implementing the policy - minimising Administrative Burden while increasing the overall cost of the policy. Dutch business has not found evidence of this. In the UK, this is unlikely to pose a significant risk because RIAs should set out both administrative and policy costs, allowing decision makers to examine costs and projected benefits before coming to a decision about new regulations likely to have a major impact on business.

We also had concerns that the Dutch approach might have diverted resources away from other processes for ensuring better regulation. In the Netherlands, Administrative Burden reduction has become the primary focus of the regulatory agenda but Dutch business told us that this has forced government to take broader better regulation issues seriously and listen to business suggestions for improvement. Once the target has been met and much of the excessive Administrative Burden cut, government may need to consider whether a further target for Administrative Burden might distort other priorities, but the evidence from the Netherlands suggests that a multi year campaign to meet a target provides a healthy focus for better regulation.

The Dutch approach, along with the recommendations in Chapter 4 should complement rather than replace the British Government's current processes for promoting better regulation. Moreover, many of the existing processes and bodies can be used to manage the Dutch approach (See Annex C).

## Conclusion

The Dutch approach appears to offer:

- An outstanding return on investment for the UK - potentially an estimated £16 billion increase in GDP for an investment estimated at £35 million<sup>27</sup> (as set out in Annex C);
- An opportunity for government to help increase the innovation, productivity and growth of business;
- A mechanism for increasing the quality of government through increasing the efficiency of regulation; and
- A robust method for the government to improve its control over the flow of new regulation and a driver to reduce the burdens imposed by the stock of existing regulation.

From what we have seen of Dutch progress, we believe that, over time, their approach should lead to significant gains, both in the quality of government and in national prosperity.

### Recommendation 1

**The Task Force recommends that, to strengthen the structure for managing the total regulatory burden, the government should:-**

- **Adopt the Standard Cost Model and use it to provide a systematic measurement of the Administrative Burden in the UK by May 2006;**
- **By May 2006 (or earlier if the results of the measurement are available), set a target for reducing the Administrative Burden; and**
- **By July 2005<sup>28</sup>, put in place an organisational structure and the necessary resources to facilitate measurement and target achievement. This structure must include a central co-ordination unit, a body providing independent scrutiny, and stakeholder participation.**

<sup>27</sup> Economic analysis from the Netherlands and Denmark informs this conclusion.

<sup>28</sup> The structure needs to be in place early to oversee the measurement process.

# 4 “One in, One out” – Managing Regulatory Burdens

## Introduction

“One in, One out” is an easily understood description of the way we want people who are involved in putting administrative burdens on others to think and to behave. It is about prioritising, about putting the more important things ahead of the less important and accepting that, if we try to do everything, we know that either we ourselves or those around us will not be able to cope. Regulatory bodies need to work out which are the most important regulations, which we can do without and which ones can be removed from the regulatory basket.

We are calling on the government to give much greater priority in its regulatory programme to “**simplification**”. There is no good reason why the process of creating new regulation should attract significantly greater resources, talent, publicity and reward than the equally important process of simplifying regulation to reduce costs and improve effectiveness.

Under the general term “simplification” we include:

- **Deregulation** - removing regulations from the statute book, leading to greater liberalisation of previously regulated regimes.
- **Consolidation** - bringing together different regulations into a more manageable form and restating the law more clearly. By improving transparency and understanding, it should reduce compliance costs.
- **Rationalisation** - using ‘horizontal’ legislation (such as a general duty not to trade unfairly) to replace a variety of sector specific ‘vertical’ regulations and resolving overlapping or inconsistent regulations.

Some of this already happens. For example, there are currently proposals to simplify the tax rules governing pensions schemes (where eight regimes are to be replaced by one) and to consolidate fire safety regulations by means of a Regulatory Reform Order. While this is encouraging, these proposals are generally in response to specific concerns or problems. The government is reacting rather than routinely taking stock of what is on the statute book and coming forward with a “regulatory spring clean”. Although there is a transparent process for introducing new regulation, there is not yet an equivalent process for simplifying or getting rid of regulation. This chapter sets out what such a process might look like and why the government should adopt it.

Simplification has a big part to play in reducing regulatory burdens and improving the efficiency of British regulation. In our report, “Make it Simple, Make it Better”<sup>29</sup>, we called on the European Commission, Council and Parliament to drive forward a programme of simplification of European legislation. The UK needs to demonstrate the same commitment to simplification and removing red tape at home that it is championing in Europe. All too often we impose additional EU legislation on top of what we have in place already, rather than looking to how our existing regulatory system might be adapted to incorporate new EU regulation.

<sup>29</sup> [www.brtf.gov.uk/reports/simplifyeulaw.asp](http://www.brtf.gov.uk/reports/simplifyeulaw.asp)



“One in, One out” does not need elaborate new regimes or procedures. Rather, the government needs to make a number of important changes to the existing machinery for managing its regulatory programme.

1. The government must be more proactive in seeking out proposals for simplification. We do not accept that there are few potential candidates, or that resources are too limited to make progress on deregulation. We want simplification to be embedded into the culture of departments and become part of the “regulatory routine”.
2. The government should adopt a “One in, One out” approach to regulation. This means adopting a framework for managing regulation that provides a better balance between the creation of new measures and the simplification of existing rules and regulations. The government should cost and publicise the measures removed, as these will often contribute towards the target to reduce Administrative Burdens.
3. Departments and regulators should undertake more frequent and better post-implementation reviews of regulation, including reviews of how the UK has implemented EU law. Such reviews should assess whether the measure is working as expected, whether the costs and benefits are as predicted, whether there have been unintended consequences and whether there is scope for simplification. The results of these reviews should feed into future policy making and simplification proposals.
4. We want the government to set up effective and efficient mechanisms to deliver regulatory reform. Regulations that are demonstrably not working, where the costs significantly exceed the benefits or where there is no commitment to compliance or enforcement, should be revised or removed. This will require significant reform of the Regulatory Reform Act, together with a Deregulation Bill to take though important changes that require primary legislation. Both will need strong political backing and adequate resources to succeed.
5. Finally, business and other stakeholders must play their part in identifying redundant or over-burdensome regulation. All too often, complaints from business about ‘red tape’ are unspecific and provide no real information on which government might act. We need to see a shared commitment between government, business and other stakeholders to work together to reduce regulatory costs through simplification.

## 4.1 Identifying Simplification Proposals

### Involving stakeholders

Business and stakeholders have a critical role to play in helping government to identify proposals for simplification. We have consistently argued that departments and regulators develop regulation more effectively by involving stakeholders throughout the process. This is also true when it comes to identifying proposals for simplification. To some extent this already goes on. Business organisations lobby for change when they believe regulation is not working efficiently. The Business Regulation Team in the

Cabinet Office's Regulatory Impact Unit (RIU) works with business organisations and government departments to simplify regulations and reduce burdens. The RIU's Public Sector team does a similar job with the public sector.

But identifying proposals for simplification is not high on departments' agendas. We believe it needs to be and that departments need to work in partnership with stakeholders to share the responsibility of identifying and taking forward candidates for simplification. A good example of this is the reform of the Sunday Trading Act 1994.

#### **Reforming the administrative requirements of the Sunday Trading Act**

*A number of retailers identified the administrative requirements of the Sunday Trading Act 1994 as an unnecessary burden. Paragraphs 4 to 6 of Schedule 1 required large shops to register with their local authority if they planned to trade on a Sunday and to notify in advance any changes to opening times. The burden was greatest when stores did not routinely open on a Sunday or regularly varied their opening hours.*

*Local authorities were obliged to maintain for public examination a register of stores that traded on Sunday. The Local Government Association (LGA) and a number of individual local authorities agreed that maintaining the register was a waste of their resources as consumers never referred to it.*

*The Business Regulation Team heard evidence from both the industry and the local authorities and built a strong case for repeal of this provision. The Department of Trade and Industry agreed and in February 2004 a Regulatory Reform Order was made abolishing the requirement.*

### **Finding examples**

Businesses often complain in general terms about "too much regulation" out of frustration at the cumulative burden rather than with any particular regulation. In order to reduce burdens, government will need specific examples of things to change, backed up by evidence. One way to approach this is to review all the regulations surrounding an event, such as having a baby, starting a business or launching a product. This may make it easier to identify overlaps, inconsistencies or regulations that require simplification.

Regulations that have been amended several times are likely to provide scope for consolidation. For instance, the Fireworks Regulations have been amended four times since December 2003. In cases like this, businesses and others often complain that they cannot keep track of the changes and therefore may inadvertently fail to comply. Consolidating these regulations could improve clarity, reduce burdens and promote higher levels of compliance.

The government has set up a number of sector specific industry and government forums to help inform the development of new regulation. One example is the Vehicle Industry Policy and European Regulation (VIPER) group. These forums should also have a role in identifying proposals for simplification and deregulation. Some ideas that they might wish to consider are set out in Annex F.

## Submitting proposals

Departments should routinely invite suggestions for simplification from stakeholders, who need to back up their suggestions with evidence. One way of doing this would be to ask stakeholders to submit proposals on an agreed template that would include:

- Evidence that a particular regulation is over-burdensome, complex or unnecessary - including how it fails to meet one or more of the Principles of Good Regulation;
- Evidence of the current costs of compliance and costs that might be saved by the proposed simplification; and
- Options for change and the likely impact of those options.

The RIA already assesses the impact of new regulatory proposals. A modified version of the RIA could be the basis of a template for stakeholders to submit proposals for simplification.

A more formal approach could be devised along the lines of the 'Super-Complaint Procedure' used to bring regulatory problems for consumers to the attention of the Office of Fair Trading (OFT) and certain other market regulators. Super-complaints must be submitted by a consumer body designated by the Secretary of State for Trade and Industry. There is detailed guidance on how to submit a complaint and the type of evidence required. The OFT is obliged to publish its response to a super-complaint within 90 calendar days, stating the reason for the decision taken.

The right to make a super-complaint is enshrined in primary legislation. We are not proposing that the government should legislate to set up a formal 'regulatory complaints procedure' but there are some potentially useful features of this model that might be adopted. For instance, giving certain bodies responsibility for putting forward simplification proposals should improve the quality of the proposals.

Whichever approach is adopted, we need an efficient, unbureaucratic process for organisations to identify and submit proposals for simplification and regulators to respond. The government should develop this in consultation with stakeholders but it should not be restricted to business. Trades Unions, the voluntary and community sector and consumer organisations should also be encouraged to submit proposals. The process needs to be rigorous enough to ensure that proposals are backed up by evidence but not so demanding that it deters stakeholders from using it.

We think it is important that stakeholders can, if need be, submit proposals to a single point in government (a one stop shop). This is because some proposals may cut across more than one department and we want to make it easy for stakeholders to submit proposals and check on progress. The Regulatory Impact Unit in the Cabinet Office might be best placed to perform this function. However, where possible, the onus should be on departments to explore with stakeholders proposals for simplification.

Once a proposal for simplification is made, the government needs to respond by a set deadline and give reasons for its decision, together with a timescale for action. Where a department accepts a proposal for

simplification, we expect them to follow the normal consultation and RIA processes to help inform their decision on whether and how to change legislation.

## **Recommendation 2**

**The Task Force recommends that, by the end of 2005, the Regulatory Impact Unit in the Cabinet Office should, in consultation with departments, develop a robust mechanism for the submission of proposals for simplification by business and other stakeholders. The mechanism should require businesses and other stakeholders to submit evidence in support of their proposals, with options for reform. It should require departments to respond within 90 working days, setting out and justifying the course of action they propose with a time limit for delivery.**

## **4.2 Promoting simplification**

### **The role of the Panel for Regulatory Accountability**

The Panel for Regulatory Accountability was established in 2001 to reduce the flow and improve the quality of regulation. It has since been strengthened and is now chaired by the Prime Minister. The Panel scrutinises new regulations likely to have a major impact on businesses, charities and the voluntary sector and needs formally to approve them before they can be sent to Parliament.

In the Pre-Budget Report in December 2004, it was announced that the Panel would challenge departments to tackle the cumulative burden of their regulations. This is a welcome development and, as a result of the Panel's work, the Department of Trade and Industry (DTI) has agreed to reduce the cost to business of its regulations by more than £1 billion over 5 years<sup>30</sup>.

We would like all departments to follow the DTI's lead and tackle the stock of existing regulation by developing a rolling programme of simplification and Administrative Burden reduction. Departments' programmes should be subject to scrutiny by the Panel for Regulatory Accountability.

In Chapter 3, we suggested that departments should draw up a list of all their regulations and measure the Administrative Burdens they impose. This will be a good starting point for identifying proposals for simplification. We would also expect those proposals for simplification submitted by stakeholders and agreed by departments to feed into departments' simplification programmes. Based on the experience of the Dutch, we also suggest that departments can usefully re-examine their implementation of EU directives to identify scope for simplification and reducing Administrative Burdens.

Below are two examples of the types of measures that could be included in departments' rolling programmes of simplification.

<sup>30</sup> [www.dti.gov.uk/about/fiveyearprogramme.pdf](http://www.dti.gov.uk/about/fiveyearprogramme.pdf)

### **Simplifying environmental permitting**

*Many businesses require licences for activities that may pollute the air, water or land. Various licensing requirements are set out in different pieces of legislation and may impose different administrative requirements on industry. The procedures relating to integrated pollution prevention and control (IPPC) for an industrial process that might pollute the air, water or land are different to those required for waste management - yet their objective, to protect the environment, is the same. Many businesses will need to deal with both permitting systems.*

*Defra, with the Environment Agency and other stakeholders, is launching a programme to modernise environmental permitting. This should streamline different regulatory requirements into a common framework and deliver environmental objectives in the most cost-effective manner.*

### **Simplifying maternity related law**

*The legislation covering maternity rights and pregnant workers has been identified by employers and trades unions as over-complex and confused. The Department for Work and Pensions guide to maternity benefits lists 19 separate pieces of legislation - and this is not the only guide to maternity related law. Inland Revenue, DTI and the Health and Safety Executive also produce guides, each with a different focus. Not surprisingly, business has asked that any extension to maternity rights be accompanied by the simplification of existing law to improve understanding and reduce the administrative costs of compliance.*

Not all regulation is developed by government departments. It is important that independent regulators also consider how they can apply the processes we describe in this section of the report.

### **Post-implementation review**

Post-implementation review has an important role in identifying proposals for simplification. There is often a high degree of uncertainty surrounding the impact of new regulation. It is therefore sensible to review how regulations are working to make sure they are hitting the mark and do not have significant unforeseen costs or unintended consequences.

We have come across a few examples of this happening in practice, for example with the Financial Services and Market Act 2000. The DTI made a commitment in the RIA to review the regulations requiring employers to consider requests for flexible working. The reason given is that the stated costs and benefits of the regulations are based largely on assumptions and it is difficult to predict the impact of the new legislation before it is being implemented. Similar uncertainty must surround many regulations and this suggests that post-implementation reviews should become a routine part of the regulatory process.

We are encouraged that the Chancellor picked this up in his Pre-Budget Report 2004. He announced that regulations should be reviewed after they are implemented to make sure they are having the intended

effect and that RIAs will in future specify how and when new regulations will be monitored and reviewed. He asked the Better Regulation Task Force to monitor and report on departments' compliance with this requirement.

We support the government's commitment to carry out post-implementation reviews for all major proposals. Reviews should take the RIA as a starting point and examine whether the chosen option has met the policy objective and if not why not. They should check that the projected costs and benefits and the assumptions made at the time the RIA was developed were broadly correct. Reviews should be published and should clearly state whether the regulation should continue in its present form or needs to be amended. We would expect all post-implementation reviews to consider how regulations and their implementation might be simplified.

We recognise that reviews can pose uncertainty to those being regulated and that, ideally, the terms of the review should be set out in the final RIA. However, problems frequently come to light only during the implementation period and there needs to be some flexibility about what a review will cover. We would like departments to consult with those affected on the scope of post-implementation reviews.

### Consolidating legislation

Consolidation Bills can reduce burdens by bringing together different Acts covering the same subject and restating the law more clearly. For instance **consumer law is spread over 60 different Acts of Parliament**, making it difficult for consumers to know their rights and difficult for businesses to understand their obligations. **Pensions law would also benefit from consolidation.**

Consolidation currently receives little attention from departments, partly because of resource constraints. Equally, consolidation may not be worthwhile in areas where the law changes frequently. However, consolidation could be used more often. For example, the Health and Safety Commission has arranged all companies' health and safety obligations around the 1974 Health and Safety at Work Act. Stakeholders have told us that significant reductions in Administrative Burdens would result if this were done in other areas such as environmental legislation. They also believe compliance would increase because it would be easier to follow the regulations.

The Law Commission writes regularly to departments seeking suggestions for its work programme. The Law Commission has a statutory duty to keep the law under review and to simplify and modernise it. Preparing consolidation Bills is one aspect of its work that departments could and should tap into more frequently.

#### **A Single Equality Act**

*Discrimination legislation is covered by several different Acts. For some time there have been calls to simplify and consolidate discrimination law into a Single Equality Act. For each statute there are different:*

- *definitions of indirect discrimination;*
- *definitions of harassment; and*
- *tests applied to determine whether migrant workers are covered.*

*A further separate statute on equal pay adds to the complexity.*

### **Recommendation 3**

**The Task Force recommends that, by September 2006, all departments, in consultation with stakeholders, should develop a rolling programme of simplification to identify regulations that can be simplified, repealed, reformed and/or consolidated.**

**The simplification programmes should include:**

- **Proposals to reduce Administrative Burdens.**
- **Revisiting the implementation of EU directives, particularly framework directives.**

**Departments should undertake post-implementation reviews of all major pieces of legislation, the results of which should feed into their rolling simplification programmes.**

**Departments' simplification programmes should be subject to scrutiny by the Panel for Regulatory Accountability.**

### **Balancing new regulation**

In the previous section we have looked at how departments might simplify and reduce the existing stock of regulation. In this section we look at how the government can use the RIA process to balance the flow of new measures with compensatory simplification proposals.

Departments and regulators should always consider how any new proposal is going to fit with existing regulation. It is one of the Task Force's Five Principles of Good Regulation - consistency. However, we heard from departments that in practice officials responsible for "getting new pieces of legislation through the system" rarely take an overview of the regulatory environment, but tend to concentrate on pushing ahead with their own proposal in isolation. They must be missing opportunities to simplify and deregulate.

We want departments, as a matter of course, to look at how they might simplify or get rid of existing regulation when they want to introduce new proposals in a particular sector or area of regulation.

One way to do this would be to require that the RIA process for new regulatory proposals also includes details of the simplification and deregulation opportunities that the proposed new regulation affords. While this may not be necessary for every new proposal, we would expect it to apply to all major proposals that are considered by the Panel for Regulatory Accountability. Departments should put forward details of their proposals for simplification at the partial RIA stage of the process and consult on them.

The potential for linking simplification measures to new regulations is likely to be greater in some areas than others. Implementation of EU framework directives may provide opportunities to repeal the existing regulation in the same area. For example, the DTI is looking at the potential to simplify and rationalise existing consumer legislation once the new duty not to trade unfairly is in place under the proposed Unfair Commercial Practices Directive.



The box below is an example of how implementation of an EU Directive can be accompanied by simplification measures.

**Simplifying assessment procedures for veterinary medicines**

*EC Directive 2001/82/EC lays down procedures for assessing veterinary medical products. An amending directive has been negotiated and Defra is currently consulting on implementation. Defra is taking the opportunity to simplify current legislation in this area and plans to replace the current legislative requirements (the veterinary medicines elements of the Medicines Act 1968 plus 50 statutory instruments) with a single set of regulations written in plain English.*

All regulatory proposals likely to impose a major new burden on business now require clearance from the Panel for Regulatory Accountability before they can proceed to wider Ministerial agreement. Clearance is dependent on the provision of an adequate RIA. We believe that for all major proposals, the RIA process should include details of offsetting simplification measures.

However, we also recognise that it may sometimes not be possible to bring forward compensatory simplification measures, particularly for emergency measures or measures that are intended to protect people's health. But departments should always set out in an RIA the potential to bring forward simplification proposals as part of the 'regulatory package' and, if simplification measures are absent or inadequate, explain why to the Panel's satisfaction.

If this is to work, RIAs need to be clear and focused. We are concerned that RIAs are losing their focus as they have started to consider multiple types of impact. For instance, in addition to business impacts, RIAs now have to include race equality impacts, health impacts, rural proofing and environmental impacts. We have no doubt that these are important but we question whether they can all be incorporated into an RIA without it becoming unmanageable and unfocused. Effective communication is as often hampered by too much information as by too little.

We understand that the Regulatory Impact Unit in the Cabinet Office is redesigning the RIA guidance. The new web-based guidance will comprise the core RIA guidance (focusing on impacts on business, charities and the voluntary and public sectors) with links to information on other impact assessments. We support this move as a key part of ensuring that RIAs are used to improve the development and implementation of new regulation and to set out the compensatory proposals to simplify existing regulation.

#### **Recommendation 4**

**The Task Force recommends that the Regulatory Impact Assessment process for major regulatory proposals should require consideration of compensatory simplification measures. Where it is not possible to include any simplification measures, there should be a reasoned explanation of why not. The guidance on Regulatory Impact Assessment should be amended to reflect this change by the end of 2005.**

**Clearance by the Panel for Regulatory Accountability of any major regulatory proposal should include consideration of offsetting simplification proposals.**



## 4.3 Mechanisms for Enacting Reform

In this section, we make recommendations on the possible mechanisms for delivering simplification.

### Regulatory Reform Orders

The Regulatory Reform Act 2001 established Regulatory Reform Orders (RROs) as a legislative vehicle for amending primary legislation without the need for a Bill.

RROs can be used for minor amendments or wide ranging reforms, provided they remove some burdens. Since 2001, 28 RROs have been laid, of which 21 have come into force. In last year's Spending Review, the government agreed a new target of 75 RROs by 2008. Given progress to date, it is unlikely that the government will meet this target without reforms to the Regulatory Reform Act.

The Act was intended to "provide a major tool for this and future governments to reform entire regulatory regimes and to tackle unnecessary, overlapping, over-complex and over-burdensome regulation."<sup>31</sup>

In theory, RROs should be an attractive proposition to departments seeking to reform primary legislation, as they do not require a legislative slot. However, in practice they have not proved an attractive alternative to a Bill. This is because the process for reforming legislation via RROs is still resource intensive and because the scope of the Act is fairly restrictive. For instance, RROs cannot be used to:

- Reform common law;
- Remove burdens which affect only ministers and government;
- Reform legislation under two years old or provisions which have been substantively amended in the previous two years; and
- Sub delegate powers – e.g. create new powers to make Statutory Instruments or binding rules.

The process is the same for every RRO regardless of its size or complexity. For instance, the Museum of London RRO proposal that made a two line amendment to one Act required the same procedure and level of scrutiny by the Parliamentary Regulatory Reform Committees as the Fire Safety RRO proposal, which will repeal and amend 54 Acts of Parliament.

Departments have told us that an RRO takes the same resources to put through Parliament as does a Bill. We wonder whether reform of fire safety could have been achieved more quickly and easily by a Bill. While we understand the need for proper parliamentary scrutiny, we do not consider it proportionate, targeted or necessary for each RRO to undergo the same level of scrutiny. Large, complex RROs may require greater scrutiny, while smaller, less complex RROs should requires less.

The Prime Minister has indicated that he is willing to consider reforming the Regulatory Reform Act. In December 2004, the former Minister for the Cabinet Office, Ruth Kelly, gave evidence to the House of Commons Regulatory Reform Committee and the Delegated Powers and Regulatory Reform Committee in

<sup>31</sup> Hansard, column 850 second reading of the Regulatory Reform Bill, 31 December 2000

the House of Lords. She suggested that it was time to review the Regulatory Reform Act and to consider how its scope could be widened to allow more reforms to be carried out via RROs. We think this is a good idea. If the government, in partnership with business and other stakeholders, identifies more legislation to be simplified, it needs legislative vehicles in place that will deliver change successfully and efficiently.

However, we note that the Regulatory Reform Committees in both the Commons and Lords have recently rejected a proposal for reforming civil registration of births and deaths by RRO. Both committees have expressed concerns that, as the proposal affects a great number of people, it should be debated on the floor of the House. The Office for National Statistics, which put forward the RRO, is now faced with the prospect of deciding whether it can pare down its reforms and progress as many as it can via RRO and the remainder by other forms of legislation. Given the resources and time it has taken the Office for National Statistics to progress this far (the reform process began in 1998), its experience is unlikely to encourage departments to progress important reforms by RRO.

One option would be to allow the Regulatory Reform Committees in either House to call for a debate on an RRO whenever “significant issues” arise. The government, in consultation with the Regulatory Reform Committees, may wish to consider developing criteria for when it is appropriate for either committee to call for a debate on a proposal for an RRO.

We note with interest that the DTI and the Department for Constitutional Affairs (DCA) are seeking order-making powers similar to RROs to progress simplification measures that do not meet the legal tests of the Regulatory Reform Act. Both would like an order making power that allows for simplification. It would seem sensible to explore, during the review of the Regulatory Reform Act, whether the scope of RROs should be extended to progress non-controversial proposals for simplification.

## **Recommendation 5**

**The Task Force recommends that the government should, as a matter of urgency, progress its promised review of the operation of the Regulatory Reform Act.**

**The review should consider how the scope of the Regulatory Reform Act can be widened to allow a greater number of reforms to be delivered by Regulatory Reform Order (RRO). Specifically it should explore whether the scope of RROs should be extended to deliver non-controversial proposals for simplification.**

**In addition the review should consider whether the whole process for developing an RRO and subsequent scrutiny could be more proportionate.**

## **A Deregulation Bill**

Although we anticipate that many proposed simplification measures could be achieved by an RRO or by secondary legislation, it is likely that some would require primary legislation. A general Deregulation Bill would deliver a number of reforms in one go and would provide departments which do not have a programme Bill with a convenient vehicle for reforms that require primary legislation.

Further, knowing that the government had set aside a slot for a Deregulation Bill would act as an incentive to departments to consider reforms that they might not otherwise consider. It would send a strong signal to business and others that the government is serious about simplification and encourage them to submit proposals for simplification.

We understand that there are eight proposals for reform in the government's Regulatory Reform Action Plan that require primary legislation and that do not yet have a slot on the legislative programme. At this stage we do not know what other candidates there may be, but there are potentially a significant number of reforms requiring primary legislation that could be taken forward in a deregulation bill.

At the recent conference for independent regulators, which we held with the National Audit Office, concerns emerged about the prescriptive nature of the founding statutes of some regulators, which prevent them from introducing potentially beneficial changes to those they regulate. Primary legislation (such as the proposed deregulation bill) would be required to amend the founding statutes of regulators, and we expect this to be a focus of Philip Hampton's report.

A successful partnership between government and stakeholders to identify simplification proposals would almost certainly throw up more candidates for a deregulation bill. Below is one suggestion that has already been put to us.

### **Political Fund Ballots**

*Under the Trades Union and Labour Relations (Consolidation) Act 1992, trades unions are required to hold a ballot at least once every 10 years to confirm whether the union should retain a political fund. The rules governing each ballot must be approved by the Certification Officer and the procedures for balloting must follow a complex number of statutory rules. The ballot has to be fully postal and be overseen by an independent scrutineer. This imposes considerable costs on the union.*

*The TUC believes that these rules are excessive and go far beyond the company law requirements on businesses which choose to make political donations. The rules are unnecessary, as the Act already requires that every union member is provided with the right to opt out of making contributions to the political fund. Every union member must be notified of this right. This provision alone seems sufficient to protect union members. It is also worth noting that, since 1984 when the political rule funds were introduced, no union has failed to win a political fund ballot.*

We acknowledge that there could be procedural difficulties with a Deregulation Bill. It could provide a considerable logistical challenge, as it may include proposals from different departments and business managers. Co-ordinating it across Whitehall would be a challenge.

Nonetheless, in order to progress reforms that require primary legislation and for which no other legislative vehicle is available, we think that the government should set aside a legislative slot for a general Deregulation Bill in the second session of Parliament after the next election. We would, of course, expect departments to follow the usual consultation and RIA procedures in respect of all proposals to be included in the Deregulation Bill.

## **Recommendation 6**

**The Task Force recommends that the government should provide Parliamentary time for a Deregulation Bill during the second session of the next Parliament.**

### **Simplification dates**

We are pleased that the government has acted on the recommendation in our report, “Employment Regulation: Striking a Balance”<sup>32</sup> (2002) to introduce common commencement dates for domestic employment law. The government now introduces all domestic employment law on two dates each year, 6 April and 1 October. The government has also announced that it will extend the use of common commencement dates to health and safety, work and pensions and company and consumer legislation. We strongly support this move, as it helps businesses and others affected by regulation to keep up to date.

Building on this idea, William Sargent, Chair of the Small Business Council, has suggested that “simplification dates” should be introduced as a way of tilting the balance of regulatory activity more towards simplification and deregulation. We think this is an excellent idea.

We suggest that common commencement dates should also be used to announce implementation of simplification measures and legislation that has been removed or consolidated. This would provide a transparent measure of how the government is balancing new regulation with simplification.

## **Recommendation 7**

**The Task Force recommends that, by April 2006, the government should extend the use of common commencement dates to other policy areas and include implementation of simplification measures as well as new regulation.**

<sup>32</sup> [www.brtf.gov.uk/reports/emplawentry.asp](http://www.brtf.gov.uk/reports/emplawentry.asp)

# 5 Further Work

There are two areas of further work that we would like to see taken forward so that more informed decisions can be taken in the future.

## Sunsetting

A sunset clause is a legal instrument that requires a piece of legislation to lapse after a specified period of time, usually after a review has been carried out. Most sunset clauses allow for Parliament to opt for the legislation to continue.

It is government policy that the use of sunseting should be considered on a case-by-case basis. According to this policy, it may be appropriate to introduce sunset clauses where:

- A regulation sets up emergency measures;
- Technological advances are likely to outstrip the regulation;
- There is a high degree of uncertainty surrounding the implementation and likely effect of the proposal.

Despite this policy, we find that sunseting is rarely used. However, judicious use of sunseting could reduce the need for later simplification. When regulations have sunset clauses, they would need to be reviewed and the case set out for their continuation, simplification or removal, based on how well and at what cost they are meeting their intended objectives. This is good practice and we should like to see greater use of sunseting in the circumstances outlined above.

Sunseting is closely linked to post-implementation reviews. The government is already committed to carrying out more post-implementation reviews and we have been asked to report on departmental performance in our Annual Report. If we find from this work that departments are not undertaking post-implementation reviews effectively, we will advise the government to consider greater use of sunseting as a means to trigger reviews and ultimately to get rid of unnecessary or unsuccessful regulations.

## Regulatory Budgets

One way to force government departments to prioritise simplification and deregulation would be to adopt regulatory budgets. These are similar to financial budgets in that they set a pre-determined level for the total regulatory costs that any department can impose. Departments then have to manage their regulatory activities within their agreed limit, balancing expenditure (new regulation) and income (deregulation) to avoid a deficit, in the same way as cash budgets.

The most stringent form of regulatory budget would be to impose an annual decrease in the total cost of regulation. This would compel departments to do more deregulation than new regulation. Another option would be to freeze the total cost of regulation such that each department would need to offset any new cost of regulation by reducing regulation elsewhere by an equivalent amount - essentially £1 in £1 out. A less stringent form of regulatory budget would be to allow a year on year increase in the cost of regulation,

reflecting a kind of ‘regulatory inflation’ driven by a desire for more protection and rights as our standard of living and expectations grow.

Although the use of regulatory budgets has been explored in the regulatory literature since the 1970s, they have not so far been adopted anywhere in the world. This is largely due to the lack of an agreed methodology and the practical difficulties of measuring the total effects of regulation. Without an agreed methodology and transparent reporting and auditing, departments would be open to the accusation that they had fiddled the figures.

A further risk is that taking on full regulatory budgets could spawn a large bureaucracy within government to develop and verify the methodology, manage the regulatory accounts and report, monitor and audit the results. No doubt it would also invent and then have to find ways to thwart innovative strategies for interpreting the rules to particular departmental advantage.

Another difficulty for the UK in adopting strict regulatory budgets is that, on average, around half of all regulation that has a significant impact on businesses and others comes from Europe. Legislation already in the EU pipeline means that the amount of European regulation that the UK needs to implement will grow during the next few years. Against this background, a strict budget would leave virtually no space for the government to enact its domestic regulations, however urgent the need.

### **Considering benefits as well as costs**

Discussion about regulatory budgets usually focuses on the costs of regulation, whether policy costs, administrative costs or both. The Dutch model for reducing Administrative Burdens is, in essence, a regulatory budget for administrative costs. However, regulations also bring benefits and decisions on whether or not to proceed with a particular piece of regulation are usually taken using an assessment of costs relative to the expected benefits, as set out in an RIA. We support these processes because it is important that the benefits of regulation at least match the costs. In the Dutch model, reductions in administrative costs do not require any reduction or dilution of regulatory benefits. Before recommending the introduction of full regulatory budgets, we would need to consider how benefits as well as costs could be systematically considered as part of the process.

### **Moving forward on regulatory budgets**

One way forward on budgets is to consider separately the administrative and policy costs. As we have set out in Chapter 3, the Dutch have shown that it is possible to introduce a form of budget to reduce Administrative Burdens. We are recommending that the government adopt the same approach in the UK and this will provide useful experience of operating regulatory budgets. We believe that full regulatory budgets need further study to see if they might play some useful role in controlling the growth of regulation. There is already considerable experience within the UK of measuring the costs of individual regulations and some experience of looking at total costs for a particular sector. Each RIA is expected to include a calculation of total costs (policy and administrative) for the proposal concerned. But there are real difficulties in moving from this to measuring the full impacts of any new proposal on the entire

regulatory framework, including for example the measurement of indirect costs such as changes in market behaviour.

At this stage, we do not believe that it is sensible to introduce full regulatory budgets, principally because of the lack of a credible methodology for measuring the total cumulative costs and benefits of regulatory proposals. Nevertheless, we believe that the government should explore how this might be done and develop a suitable methodology, learning from its experience of measuring Administrative Burdens. This would also support ongoing work to improve the quality of RIAs. We recognise that this is difficult and will take time. We suggest that the first step should be to develop an agreed methodology for assessing the cumulative costs of regulation.

#### **Recommendation 8**

**The Task Force recommends that the government should start developing a methodology for assessing the total cumulative costs of regulatory proposals. We believe that it should be possible to have the fundamental elements of such a methodology within the next two years. At this point, the government should reassess whether full regulatory budgets, taking into account the cumulative impact of regulation, should be introduced.**

# Annex A

## The Better Regulation Task Force

### Membership and ways of working

The Better Regulation Task Force is an independent advisory group established in 1997. Members are appointed by the Minister for the Cabinet Office. Appointments are for two years in the first instance and are unpaid. Members come from a variety of backgrounds - from large and small businesses, citizen and consumer groups, unions, the public sector, not-for-profit and voluntary groups and those responsible for enforcing regulations. All have experience of regulatory issues in the UK. The Chair is David Arculus. He was appointed for a three year period from 1 April 2002, which has been extended until December 2005.

### Terms of reference and how we work

The Task Force terms of reference are:

**“To advise government on action to ensure that regulation and its enforcement are transparent, accountable, proportionate, consistent and targeted.”**

When we comment on the quality of existing or proposed regulation, we test it against the five principles of good regulation listed within these terms of reference, asking ourselves a number of questions:

- Is the regulation necessary ?
- Is it affordable ?
- Is it fair ?
- Is it effective ?
- Is it simple to understand and easy to administer ?
- Does it command public support ?

We carry out studies of particular regulatory issues. These reviews are undertaken by sub-groups of Task Force members. All sub-groups discuss their proposals with key organisations and individuals, as well as (for UK reports) with ministers and government departments. We work through consensus and all reports are endorsed by the full Task Force before being sent to the relevant ministers for their response. The Prime Minister has asked ministers to respond to Task Force reports within 60 working days of publication. We also respond to consultation exercises on regulatory proposals and comment on live regulatory issues. The Chair of the Task Force attends meetings of the Panel for Regulatory Accountability, a cabinet committee which meets regularly to discuss regulatory issues with departmental ministers.



## **Members of the Task Force**

David Arculus - *Chair*, mm02  
Teresa Graham OBE - *Deputy Chair*, Business Advisor  
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A register of members' interests has been drawn up and is available on the Task Force website: [www.brtf.gov.uk](http://www.brtf.gov.uk) or on request to the BRTF Secretariat, 22 Whitehall, London. SW1A 2WH.

## **Members of the Task Force who worked on this report**

Two sub groups of the Task Force prepared this report.

### **Reducing Administrative Burdens**

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**Task Force Secretariat:** William Mason and Marie Farmer

### **“One in, One out” – Managing Regulatory Burdens**

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# Annex B

## The Five Principles of Good Regulation

<b>Proportionality</b>	<p><b>Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.</b></p> <ul style="list-style-type: none"><li>• Policy solutions must be proportionate to the perceived problem or risk and justify the compliance costs imposed – don't use a sledgehammer to crack a nut.</li><li>• All the alternative options for achieving policy objectives must be considered - not just prescriptive regulation. Alternatives may be more effective and cheaper to apply.</li><li>• “Think small first”. Regulation can have a disproportionate impact on small businesses, which account for 99.8% of UK businesses.</li><li>• EC Directives should be transposed without gold plating.</li><li>• Enforcement regimes should be proportionate to the risk posed.</li><li>• Enforcers should consider an educational, rather than a punitive approach where possible.</li></ul>
<b>Accountability</b>	<p><b>Regulators must be able to justify decisions and be subject to public scrutiny.</b></p> <ul style="list-style-type: none"><li>• Proposals should be published and all those affected consulted before decisions are taken.</li><li>• Regulators should clearly explain how and why final decisions have been reached.</li><li>• Regulators and enforcers should establish clear standards and criteria against which they can be judged.</li><li>• There should be well-publicised, accessible, fair and effective complaints and appeals procedures.</li><li>• Regulators and enforcers should have clear lines of accountability to Ministers, Parliaments and assemblies and the public.</li></ul>
<b>Consistency</b>	<p><b>Government rules and standards must be joined up and implemented fairly.</b></p> <ul style="list-style-type: none"><li>• Regulators should be consistent with each other, and work together in a “joined-up” way.</li><li>• New regulations should take account of other existing or proposed regulations, whether of domestic, EU or international origin.</li><li>• Regulation should be predictable in order to give stability and certainty to those being regulated.</li><li>• Enforcement agencies should apply regulations consistently across the country.</li></ul>

<p><b>Transparency</b></p>	<p><b>Regulators should be open and keep regulations simple and user-friendly.</b></p> <ul style="list-style-type: none"> <li>● Policy objectives, including the need for regulation, should be clearly defined and effectively communicated to all interested parties.</li> <li>● Effective consultation must take place before proposals are developed, to ensure that stakeholders' views and expertise are taken into account.</li> <li>● Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultation documents.</li> <li>● Regulations should be clear and simple. Guidance, in plain language, should be issued 12 weeks before the regulations take effect.</li> <li>● Those being regulated should be made aware of their obligations, with law and best practice clearly distinguished.</li> <li>● Those being regulated should be given time and support to comply. It may be helpful to supply examples of methods of compliance.</li> <li>● The consequences of non-compliance should be made clear.</li> </ul>
<p><b>Targeting</b></p>	<p><b>Regulation should be focused on the problem and minimise side effects.</b></p> <ul style="list-style-type: none"> <li>● Regulations should focus on the problem and avoid a scattergun approach.</li> <li>● Where appropriate, regulators should adopt a "goals-based" approach, with enforcers and those being regulated given flexibility in deciding how to meet clear, unambiguous targets.</li> <li>● Guidance and support should be adapted to the needs of different groups.</li> <li>● Enforcers should focus primarily on those whose activities give rise to the most serious risks.</li> <li>● Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.</li> </ul>

# Annex C

## Costs and mechanisms of delivery

### Cost

As these are major reforms, our proposals have resource implications for departments and the Cabinet Office Regulatory Impact Unit. However, as the Dutch have shown, much can be achieved by reallocating existing staff and resources within departments and reprioritising work. The Dutch require all directorates in all departments to find ways to reduce regulatory burdens as part of their normal work. Rather than recruiting new civil servants, departments have changed their focus from regulation towards reducing Administrative Burdens. They have not costed this separately, as they argue it improves the way departments develop policy rather than detracting from other tasks. We believe this is a good model.

Nevertheless, delivering these proposals will require additional investment to strengthen Departmental Regulatory Impact Units (DRIUs), to help Directorates identify simplification measures in RIAs and to develop a rolling programme of simplification. Departments will also need to set up some kind of partnership forum with business and others (where one doesn't already exist) to explore proposals for simplification and Administrative Burden reduction, as well as responding to suggestions for simplification.

The more immediate costs arise in implementing the Standard Cost Model to drive down Administrative Burdens. Here we can estimate likely costs from the Dutch experience. These include:

- **Creating a list and measuring the cost of existing regulations.** This is an initial, one-off cost. We estimate that the list could be created within three months. If this were done by consultants, it would require six to eight consultants working full time. The measurement, which the Dutch undertook once they had created a list, required about 15 consultants working for six months on each of the main regulatory departments in order to measure the baseline.

The initial, one-off cost of measurement for ten Dutch departments was some €4 million. This exercise revealed that the Dutch government collectively imposed an Administrative Burden of €16.4 billion per year on the businesses it regulates.

- **Running the organisational structure.** The Dutch have about 60 people dedicated to Administrative Burden reduction:
  - IPAL (Central administration) - 18 people;
  - Actal (Independent Oversight) - 9 people; and
  - Departmental Management Teams - 3-5 people in each department with a significant regulatory function.
- **Departmental Resources.** Some Dutch burden reduction projects require departments to implement new Information & Communication Technology (ICT) systems. Again, the Dutch have not provided additional resources for these. They argue that costs should be met from existing budgets, as the investment will be repaid in future from the lower costs of managing a simplified or reduced regulatory base.

The Dutch told us that reducing Administrative Burdens would save the government significant sums by eliminating costly bureaucratic processes.

- **Business Resources.** The Dutch government asked business to commit senior people to the Joint Commissions in each regulatory department. The consultants assessing Administrative Burdens have also engaged business at an operational level to collect data. The Dutch have not measured the costs to business of co-operating in reducing burdens, as they have found business eager to co-operate because of their concern about the growing Administrative Burden.

Adding these together, the table below shows the likely costs for the British Government of implementing the Standard Cost Model compared with estimates of what it is costing the Dutch.

Activity	The Netherlands	United Kingdom
Measurement	c. €10 million <sup>33</sup>	c. £15 million <sup>34</sup>
Organisational Structure	c. €25 million (€5 million p.a. for 5 years)	c. £20 million (£4 million p.a. for 5 years)
Departmental Resources	Reprioritisation of existing resources - also improves policy	Reprioritisation of existing resources - also improves policy
<b>Total</b>	c. €35 million	c. £35 million

These costs need to be put into context and treated as an investment - an investment with a massive return. The Dutch estimate that by spending €35 million on Administrative Burden reduction (and assuming they meet their target of reducing the Administrative Burden by 25%) this will stimulate an increase in GDP of €6.7 billion.

We believe that the British government would see output increase by the same order of magnitude. Were the British Administrative Burden reduction process to generate the same gain in GDP as the Dutch expect, British GDP could increase by a potential £16 billion<sup>35</sup>.

<sup>33</sup> This is an extrapolation from the costs of one Dutch department, combined with information gathered from Dutch consultants.

<sup>34</sup> On the basis of conversations with the Dutch we have estimated the number of consultants required to make an initial list of regulations and undertake measurement in the UK. British costs are higher than Dutch costs because the Netherlands has ten regulatory departments whereas the UK has approximately 20 and numerous independent regulators. Further we understand that current day rates for consultants in the UK are higher than in the Netherlands and the UK will need to construct a list of regulations which the Dutch had already developed by 2002.

<sup>35</sup> This estimate is based on the assumption that the British economy would respond in the same manner as the Dutch economy, as estimated by the Dutch Bureau of Economic Policy Analysis (April 2004 paper). It assumes that the British Administrative Burden is the same as the Dutch Administrative Burden (3.6% of GDP) and that the burden will be reduced by the same proportion (25%) as the Dutch intend to reduce their burden.

[www.administratievelasten.nl/default.asp?CMS\\_TCP=tcpAsset&id=A4FB469B2A3B473AB81F2340E332C3B8](http://www.administratievelasten.nl/default.asp?CMS_TCP=tcpAsset&id=A4FB469B2A3B473AB81F2340E332C3B8)

## Use of Existing Infrastructure

Additional costs can be minimised by using existing institutions and mechanisms as far as possible. The table below suggests how some of the organisations and processes which the UK already has in place might be used to make the Dutch approach work here.

Implementing the Dutch Approach in the UK		
Process	Dutch Body	British Equivalents
Regulation Database Construction	Consultants/Civil Service	Consultants/Civil Service
Baseline Measurement	Consultants	Consultants
Consultant Supervision	Departmental Administrative Burden Reduction Units	Departmental Regulatory Impact Units
Departmental Reduction Co-ordination	Departmental Administrative Burden Reduction Units	Departmental Regulatory Impact Units
Departmental Reduction Identification (1)	Joint Commissions of government and industry	Government Industry Groups such as VIPER <sup>36</sup> (the nearest British equivalents, though there are differences)
Departmental Reduction Identification (2)	Internal Review by Departmental Directorates	Internal Review by Departmental Directorates and Regulatory Reform Ministers
Government Level Co-ordination (1)	IPAL unit	Cabinet Office Regulatory Impact Unit or HM Treasury <sup>37</sup> , making use of the Panel for Regulatory Accountability to ensure regular reporting
Inter-ministerial Co-ordination	Minister of Finance is lead minister, working through Council of Ministers	Prime minister and Chancellor of the Exchequer to co-ordinate through the Panel for Regulatory Accountability (A Cabinet Committee on which the Prime Minister and Chancellor sit)
Independent Oversight	Actal	Whichever organisation undertook this role, it would require a level of independence from government at least as great as that the BRTF enjoys
Parliamentary Scrutiny	Semi Annual report by Minister of Finance to the Dutch Parliament <sup>38</sup>	Six monthly debate in Parliament

While the government will need to decide how to respond to our recommendations and what implementation mechanisms to use, we would suggest that it use existing bodies wherever possible.

<sup>36</sup> These would need to be expanded to improve their coverage. VIPER stands for the Vehicles Industry Policy and European Regulation Group

<sup>37</sup> If this function were located in the Treasury, the Treasury team working on better regulation would need to expand by an order of magnitude.

<sup>38</sup> Staten General

### **Key Areas Requiring Additional Resources**

One area where additional resources will certainly be needed is the central unit that will drive these reforms and monitor and report on progress. The Dutch have told us that without the core team of 18 in IPAL to manage the system and the 9 people in Actal to provide independent oversight and challenge, little progress would have been made. The Regulatory Impact Unit in the Cabinet Office is a possible home for some kind of IPAL equivalent, but this would need a new team to be set up. Similarly, a body like Actal is essential.



## Annex D

# Expansion of the Standard Cost Model

In addition to the Administrative Burdens that the Dutch central government places on business, central government regulations often have an impact on other parts of government and the public sector. Regulations are also made by provincial and local government and questions have also been asked in the Netherlands about the burden the state puts on the private citizen. Given these concerns, the Dutch are now extending their use of the Standard Cost Model as follows:

- Burdens on citizens are measured and monitored by the Ministry of the Interior. This started in January 2005;
- The Ministry of Education is using the methodology to reduce burdens on schools;
- The Ministry of Finance is looking at using the model to reduce the burdens government departments put on each other;
- Administrative Burdens imposed by local and regional governments have also been measured using the Standard Cost Model;
- IPAL is exploring with local governments and professional organisations (e.g. the Dutch equivalent of the Law Society) the possibility of reducing their burdens (i.e. local and self regulation); and
- There are no firm proposals to reduce burdens on front line public sector workers yet but this is being considered.

We were interested to see that the Dutch are starting to use the Standard Cost Model to monitor Administrative Burdens on a broader front and think that, in time, it might be worthwhile considering deploying it for other purposes in the UK. That said, there are already many initiatives in the UK to reduce the burden on front line public sector staff and local government.

# Annex E

## International adoption of the Standard Cost Model

### Interest in the Standard Cost Model

- Belgium is using it for VAT and business permits.
- The Czech Republic, Australia and New Zealand have expressed interest.
- Denmark is now measuring all regulation.
- Estonia is using it for VAT and statistical burdens.
- France and Italy are adopting it for business permits.
- Hungary is using it for VAT.
- Norway and Sweden started to use the Dutch approach for VAT costs and are now broadening its use.
- Poland is using it for VAT and transport.
- South Africa is measuring fiscal legislation.

# Annex F

## Examples of projects which might reduce Administrative Burdens

We include this annex because we believe it is helpful to give examples of some of the good work and ideas we heard about as we spoke to stakeholders in the United Kingdom, rather than just asserting that Administrative Burdens could be cut without specifying how this might happen.

In listing these ideas we are not saying that they are flawless. We lacked the time and resources to investigate each one but we think they provide useful pointers, which may be researched further, copied or built upon by departments faced with the challenge of cutting Administrative Burden.

### Removing obsolete regulation

1. Defra has made a commitment to review its existing Administrative Burden and reduce it by at least 25% in its Five Year Strategy - Delivering the Essentials of Life<sup>39</sup>.
2. The Office for National Statistics has a limit on the total cost its surveys can impose on business and regularly reviews its existing Administrative Burden to stay within that limit.

### Making the current system less burdensome

3. Adopt “Silence is Consent” - Under this rule, consent is automatically given to an application if the government does not object within a given period of time. It is used occasionally in the US by the Food and Drug Administration<sup>40</sup>. Spain’s Administrative Procedure Law places an obligation on administrative bodies to respond to applications within six months, unless the relevant law specifies an earlier deadline<sup>41</sup>. If no timely response is given to a procedure initiated by an interested person, this can be taken as a tacit authorisation. There would have to be some limits on the use of this rule but it may have specific application for cases where there is limited risk to health, safety or money. Use of this rule may lead government to process applications more efficiently.
4. Pre-populate forms - Companies House is already doing this. Every company has to send an annual return to Companies House, containing information about its directors, secretary, shareholders and other basic details about the company. Companies House pre-print all the information they hold on each company onto the annual return and send it to the company before the deadline for returning the forms. Companies only need to check the details, make any changes and return the form. This can be done electronically or on paper.
5. Promote “Plain English” drafting - The Inland Revenue is systematically rewriting tax legislation to make it clearer and easier to use. Although this work does not simplify the tax regime, making the legislation clearer will reduce Administrative Burden in so far as it will

<sup>39</sup> [www.defra.gov.uk/corporate/5year-strategy/5yearstrategy.pdf](http://www.defra.gov.uk/corporate/5year-strategy/5yearstrategy.pdf)

<sup>40</sup> See page 229 of the OECD report *From Red Tape to Smart Tape - Administrative Simplification in OECD Countries* (2003) Paris.

<sup>41</sup> See page 51 of the OECD report *From Red Tape to Smart Tape - Administrative Simplification in OECD Countries* (2003) Paris.

reduce the time taken to understand and apply the law. The Inland Revenue has already delivered two rewrite Bills. Its third Bill is currently before Parliament and is expected to result in savings in the region of £40 - £100 million.

6. Provide pro-formas to help business comply with regulations. The DTI has published model letters to help small businesses comply with their obligation to consider flexible working by employees. Pro-forma letters which meet legal requirements can be downloaded from the DTI website and used by small business to save them time and money.
7. Produce "See-at-a-glance" regulatory guides. These have just been launched. They are examples of government making guidance appropriate, clear and brief, both for customers and for those enforcing regulations. They should act as an example to other regulatory bodies producing guidance.
8. Review how legislation / regulation is working - look for hot spots. This is the approach of the revenue departments when working out where to reduce Administrative Burdens. They evaluate where a tax is not working because it is too difficult to understand or too burdensome, consult those affected and reform it.
9. Profile businesses based on risk. The Environment Agency's Operator Pollution Risk Appraisal<sup>42</sup> (OPRA) aims to incentivise improved environmental performance and provide a transparent means by which operators of industrial installations can assess their own performance and see how they may be able to improve it. The appraisal methodologies take into account the potential hazard (location, emissions and operational complexity) and operator management performance to provide an environmental risk profile. That profile helps determine the Environment Agency's charges for permits and the frequency of inspections.
10. Promote electronic data interchange (EDI) between government and business management information systems. An example of this would be making farm management software Defra compatible so it submitted data into the Whole Farm Appraisal scheme without the farmer having to use the Defra web portal. A further example would be Inland Revenue's XBRL<sup>43</sup> work, which aims to produce accounting software that feeds directly into government returns. Clearly EDI is linked to the wider use of intermediaries. There is a need to ensure that government allows for competition rather than merely outsourcing its work to a monopoly provider.
11. Introduce electronic expert advisors (software packages). The US government has these to advise companies on specific issues such as how to deal with asbestos according to all the regulations. These electronic advisors make it easier for companies to comply with regulations. A cost benefit analysis would need to be done to prove that the investment would result in a saving for government and business relative to using human advisors and paper guides.

<sup>42</sup> The Environment Agency's website contains details of its OPRA and charging schemes ([www.environment-agency.gov.uk/](http://www.environment-agency.gov.uk/)).

<sup>43</sup> XBRL (xTensible Business Reporting Language) is a way of tagging data so that it can be found easily. With XBRL marked up data, it becomes easier to sift the data automatically to find only the bits you need for a particular process.

12. Make more use of existing information. When new legislation is proposed in the Netherlands, substantial efforts are made to ensure that it does not create additional Administrative Burdens when it could use existing processes. For example, the Dutch Ministry of Agriculture, Nature and Food Quality is now reversing some of its processes for making policy and asking how new agricultural regulations can be developed to ensure that the reporting requirements can be met using information the farmer has already collected for the management of his business.

### **Improving the development of new regulations**

13. Carry out pilots and visit businesses prior to implementing regulations. The implementation of the minimum wage by Inland Revenue was cited as an example of good practice in this area. This will enable proposals and associated RIAs to be refined on the basis of a better understanding of the costs and benefits. Such an approach has the potential to “fine tune” regulatory requirements before they are fully implemented and help prevent unintended consequences. However, it is important that the piloting of proposals does not compress the time available to prepare for implementation and compliance by business and the regulator after the regulatory proposals have been finalised.

14. Think small first - pilot regulations with small businesses rather than writing them for big businesses and then trying to downsize them.

15. Review paperwork requests before they are issued by government. The ONS Survey Control Unit reviews and amends all surveys issued by the government Statistical Service<sup>44</sup>. In the UK there is no equivalent review process for non statistical information requests from government. The US Office of Management and Budget conducts such a review process for all US government information requests. It believes the system works well because it forces officials to think about whether they really need what they are asking for.

16. Introduce Regulatory “Gate Keepers” - the Department for Education and Skills (DfES) now uses these to protect schools and other educational institutions from excessive paperwork. This is a mechanism for reducing bureaucracy, which might be helpful for certain parts of the private sector which are heavily regulated. DfES are very positive about the difference it has made to the quantity and quality of its regulation - for example the amount of paper being sent to headteachers of primary schools.

17. Increase interchange between the civil service and small / medium businesses to enhance government understanding of business perspectives on regulation.

<sup>44</sup> The ONS also tries to maximise the use of existing data as an alternative to placing a compliance burden on business.

## Changing the way government deals with information submissions to ease the burden

18. Increase co-ordination between government bodies regulating the same sector. The Whole Farm Approach programme, of which the electronic appraisal is a key initial component, should show how burdens can be reduced when government bodies (Defra, Environment Agency and Health & Safety Executive) work together to set up a mechanism for sharing data from business rather than requesting the same information several times. Some businesses may be concerned about different government bodies sharing information but business representative organisations have told us that many businesses would hope and expect government bodies to share information.
19. Encourage information sharing between government bodies.
  - a. Create a universal identifier for each business to use across government. This might be done through the Office for National Statistics' dormant Comprehensive Business Directory project.
  - b. Use IT protocols to facilitate data interchange between different systems. The Department for Education and Skills has done this successfully for all schools.
  - c. Increase staff interchange between government bodies to create more informal links.
  - d. Provide a legal basis for data sharing. We have received different views from stakeholders on data sharing / protection issues but most agree it is perceived to be a real constraint on cross-departmental data sharing. Specific suggestions include:-
    - i. Putting a duty on departments to share information. For example, Statistics Canada has greater access to Inland Revenue records than its British equivalent, which means it can produce the same statistics while disturbing business less.
    - ii. Introducing a workable code of conduct for data sharing.
    - iii. Reforming the law so that more information collected by government can be shared among different government bodies. We believe existing restrictions should be reviewed in light of the ability of information systems to share information without revealing its source. The Dutch are working on this.
  - e. Stop government agencies profiting from selling data which intermediaries and others might be able to use to reduce burdens, were it to be freely available.
20. Look at opportunities to use single transaction reporting. This is a description of a global trading system whereby the shipper enters all the details of a shipment onto a computer system once. The system then automatically informs all those (such as revenue departments) with an interest in the transaction, vastly reducing the paperwork concerned with trade. Customs plan to introduce this for imports as part of global changes in international trade. Government could consider whether a similar system could provide benefits in other areas.

21. Increase the use of One Stop Shops - for example, in Australia, the Business Licence Review Unit pioneered by the Victorian Regulation Review Unit has helped cut the costs of businesses searching for applicable regulations.
22. Exploit the capabilities of existing systems. The work done in many public sector organisations to prepare for the Freedom of Information Act has led to the installation of a number of information management systems that are built to be auditable and resilient. The architecture of these systems allows for them to be used to show compliance with regulations. They provide the ability to inspect documentation online which could contribute to streamlined, more efficient and targeted inspection regimes. Above this, the notion of unobtrusive or low impact inspection for successful institutions is potentially appealing. The notions of earned autonomy and inspection in reverse proportion to achievement could then ensure that “light touch regulation” reduced the burden on front line staff in public sector organisations.
23. Create a single gateway for public sector procurement as recommended in the Better Regulation Task Force and Small Business Council report “*Government: Supporter and Customer?*”<sup>45</sup>. The Small Business Service is working to develop this to allow small businesses to tender for public contracts with less paperwork.
24. Develop a single point of access to all consultations and incoming regulatory burdens. Work (such as the NetRegs system) has gone some way towards achieving this in the environmental area but we lack the comprehensive system which the US is developing ([www.regulations.gov](http://www.regulations.gov)). This website consolidates all government rules that are open for public comment into a single user friendly website.
25. Establish Independent Review Units. These might provide a mechanism for developing Administrative Burden reforms. The DfES has set up an Implementation Review Unit composed of twelve head teachers and senior school staff who make suggestions for reducing school bureaucracy. This body fulfils the same function for schools regulation in the UK as the Dutch Joint Commissions do for specific departments in the Netherlands.
26. Integrate e-technologists and service designers into policy and implementation teams rather than keeping them in separate silos / head office. This might lead to a qualitative change in the sort of on-line service government provided, ensuring that projects were much more closely attuned to consumer demand. There would clearly be a need to develop networks to allow e-technologists to retain their technical edge while working in a generalist environment.

### **Reduce the demands for information**

27. Consolidate monthly and quarterly returns into quarterly or annual returns. Revenue departments already offer this as a simplification for small firms with a good compliance record or when only de-minimis amounts of tax are due. There may be the potential for

<sup>45</sup> p. 23 *Government: Supporter and Customer?* (May 2003) [www.btfr.gov.uk/reports/smeprocurement.asp](http://www.btfr.gov.uk/reports/smeprocurement.asp)

government to do this more widely. The Dutch have found it to be a good way of reducing burdens.

28. Focus on the important outcomes. For example, the Whole Farm Appraisal process gathers a great deal of information on the full range of farming practices. The degree to which this information is pre-populated from existing data sources, the ease with which responses can be provided and the extensive help and guidance that accompanies each question are critical to the success of this initiative. We would like Defra and other agencies involved in the Whole Farm Appraisal to examine their requests to ensure that they are only seeking essential information focused on key policy priorities. Other regulators should consider whether their information requests focus on the important outcomes.
29. Increase thresholds for regulations. As previous reports by the Task Force have acknowledged, there are issues around simply increasing thresholds. Having a high threshold can mean that government does not consider the impact of regulations on small and medium businesses when drafting, such that they become a barrier to business growth<sup>46</sup>. Further, the degree to which thresholds can be raised is often constrained by EU law. Nevertheless the IRS has had considerable success reducing burdens through raising thresholds in the US. Recent British examples include the water abstraction licensing system where revised thresholds have released approximately 23,000 of the smallest abstractors from the need to hold an abstraction licence issued by the Environment Agency.

### **Changing the way policy objectives are achieved to ease the burden**

30. Use alternatives - The Environment Agency believes that there are a number of alternatives to permitting, including trading schemes, direct application of legislation, environmental taxes and negotiated agreements, that might achieve the same environmental outcomes. In some instances, these alternatives may also result in lower Administrative Burden and increase flexibility for business.

In addition, Defra is launching a programme with the Environment Agency and other stakeholders to modernise and streamline environmental permitting.

31. Use incentives - When introducing mandatory e-filing for employers' end of year returns, the Inland Revenue has pioneered the use of financial incentives to help smaller employers become e-enabled rather than impose mandatory obligations on them.

### **Involving the private sector to reduce the burden**

32. Encourage competition in service provision by using intermediaries:-
  - a. Explore the opportunities for use of third parties such as auditors to provide assurance to government that regulations are being complied with. Many industries

<sup>46</sup> Section 4.8 of *Helping Small Firms Cope with Regulation - Exemptions and Other Approaches*



have assurance schemes and, by facilitating the use of accredited auditors (who already work in some sectors), it is possible that the number of inspections by government (and hence costs to government and business) could be reduced. Clearly the focus should be on facilitation, not on making it compulsory for business to deal with intermediaries rather than the government. Appropriate reward structures need to be in place to avoid perverse incentives.

- b. Use intermediaries to provide government with information. Under this model, departments such as Inland Revenue and Work and Pensions would take steps to make it easier for private and voluntary and community sector bodies (e.g. charities or banks) to file information for taxes and benefits on behalf of their customers. The advantages might be that, by using existing infrastructure and by knowing their customers better than the government could ever hope to, the requisite information could be provided more accurately and with less effort for the business or individual than is currently the case. Competition between private and voluntary sector bodies would lead to more user friendly systems (both on and off line) than the government is ever likely to provide. Government would benefit from reduced staffing and overhead costs in addition to obtaining timely information.

This proposal may have the potential to offer a three way win - for business or citizen, intermediary and government - but any system would have to be structured so that it did not stop businesses and individuals dealing directly with the government - i.e. use of intermediaries would need to be voluntary. Care would need to be taken to ensure government facilitates competition to bring down burdens rather than simply outsourcing services and that the reward structure for intermediaries encourages them to work for businesses and individuals.

Many older people have told the Department for Work and Pensions that they prefer to deal with voluntary sector organisations, such as Age Concern and Help the Aged, rather than having to send documents to the Pension Service in order to claim DWP benefits. DWP has listened and is responding. DWP has started pilots which enable voluntary sector organisations to accept claims for DWP benefits and to verify supporting documentation. This is a significant step forward which brings the voluntary sector into closer partnership working with the Pension Service to provide a more customer-focused approach. Over the next two years DWP will roll this out nationally so that any voluntary organisation which has the Legal Services Commission Quality Mark for advice and information services can (if they wish) provide this service.

Encouraging intermediation is not a panacea but, as the PayPoint showed<sup>47</sup>, it may offer significant benefits to many.

<sup>47</sup> Paypoint was created to allow those without bank accounts to pay utility bills easily after the old utility shops in the high street closed. It has led to benefits for utility companies (lower costs), low socio-economic groups (more convenient system) and small shops (more people to buy goods) where Paypoint terminals are located. Paypoint is now being used by some local councils to collect rent at a lower cost and in a manner which saves tenants time.

## Other

33. Encourage “What If” functionality in government systems. This would allow businesses and individuals to use government systems to work out the regulatory implications of making different choices. This might be useful to a mother working out whether to go back to work at a certain salary and what effect this would have on her benefits / tax credits. It might also be useful to business working out how best to comply with regulatory obligations.

The DTI’s Tailored Interactive Guidance on Employment Rights (TIGER) system<sup>48</sup> is a good example of this. It has been designed to provide a user-friendly online guide through different aspects of British employment law. It is divided into clear subject sections and by providing minimal information, the visitor can gain access to key information relating to many aspects of working life. Each subject area is divided into two sections - advice for employees and advice for employers. There are also links to relevant forms that may need to be completed.

The website also provides a link to ACAS, who provide information and advice on a range of employment law matters.

34. Give more of a consumer focus to IT projects. A good example of this is the BBC licence fee department integrating television sale notification into retailers’ Electronic Point of Sale (EPoS) systems - significantly cutting the Administrative Burdens and increasing compliance. Government IT projects designed to collect revenue and taxes should learn from this example.

<sup>48</sup> [www.tiger.gov.uk](http://www.tiger.gov.uk)

# Annex G

## Contributors to the Review

We would like to thank the following for taking the time to contribute to our study

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Department for the Environment, Food and Rural Affairs  
Department for Education and Skills  
Department of Health  
Department of Trade and Industry  
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# Annex H

## Glossary

ACAS	Advisory, Conciliation and Arbitration Service
Actal	Dutch Advisory Board on Regulatory Burden
BRT	Business Regulation Team of the Cabinet Office Regulatory Impact Unit
Council of Ministers	Dutch Cabinet
Defra	Department for the Environment, Food and Rural Affairs
DfES	Department for Education and Skills
DTI	Department of Trade and Industry
EDI	Electronic Data Interchange
EPoS	Electronic Point of Sale
EU	European Union
GDP	Gross Domestic Product
ICAEW	Institute of Chartered Accountants in England and Wales
ICT	Information and Communication Technology
IPPC	Integrated Pollution Prevention and Control
IPAL	Interdepartmental Project Directorate for Administrative Burdens
IRS	US Inland Revenue Service
IT	Information Technology
LGA	Local Government Association
NAO	National Audit Office
OECD	Organisation for Economic Co-operation and Development
OGC	Office of Government Commerce
OFT	Office of Fair Trading
ONS	Office for National Statistics
OPRA	Operator Pollution Risk Appraisal
PPC	Pollution Prevention and Control
RIU	Regulatory Impact Unit of the Cabinet Office
RIA	Regulatory Impact Assessment
RRAP	Regulatory Reform Action Plan
RRO	Regulatory Reform Order
SMEs	Small and Medium sized Enterprises
TIGER	Tailored Interactive Guidance on Employment Rights
VAT	Value Added Tax
VIPER	Vehicles Industry Policy and European Regulation Group
UK	United Kingdom of Great Britain and Northern Ireland
US	United States of America
XBRL	xTensible Business Reporting Language

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