

# SCOTTISH EXECUTIVE - IMPROVING REGULATION ANNUAL REPORT 2005

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## **1. Foreword by the Deputy First Minister and Minister for Enterprise and Lifelong Learning**

Better Regulation is one of the 6 priority areas that I have personally identified as being crucial to a successful Scottish economy. As enterprise minister, I want to make a difference not only on issues directly relating to my portfolio, but also as a champion for business issues across the work of the Scottish Executive as well as through appropriate representations to the UK Government and the European Union.

Reducing bureaucracy for business and front line staff in the public sector is essential if we are to improve productivity and competitiveness, and to deliver better public services. It is an agenda to which I attach the highest importance.

Regulations are an essential part of modern society - and provide many protections which are important for our businesses and our citizens. There are very few areas where business opposes outright the objective behind regulations but they do want to ensure those objectives are achieved in the most appropriate manner. Regulators, have a duty to take account of and to minimise any costs they impose when meeting their objectives and need to find innovative ways to minimise those costs. This is why I support the industry led initiatives to improve Regulation, Inspection and Procurement in Scotland.

Throughout the document we have referred to business, however the voluntary sector and social enterprise is an important part of this. The voluntary sector often compete in markets for contracts to deliver public services and many of the actions referenced in this document which relate to reducing burdens on business also apply and will impact positively on the voluntary sector and social enterprises.

I am delighted to be able to introduce this the second annual report of the Improving Regulation Unit covering the work of the unit up to December 2005. It shows the real strides we are taking:

- to identify where the administrative burden falls inappropriately;
- to introduce sound, risk based enforcement regimes;
- to champion Scottish business in Europe and in Whitehall;
- to remove barriers to SMEs access procurement opportunities; and
- to streamline the public sector to lift burdens on businesses and the voluntary sector.

Better regulation is in all our interests and I am confident that by working closely with industry we can jointly maintain the momentum to improve Scotland's regulatory environment.

**Nicol Stephen MSP**  
**April 2006**

## **2. Introduction**

This, the second report of the work of the Improving Regulation Unit, covers the period where the first report ended mid 2004 until the end of the 2005 calendar year. It looks at new regulatory developments in the European Union and in the United Kingdom. Given that the vast majority of Regulations affecting Scottish business come from either Brussels or London, sections 3 and 4, which are essentially scene setters, examine how the Executive is feeding into and influencing thinking in the Commission and Whitehall. The bulk of the report is to be found in section 5, which concentrates on what has been happening here in Scotland. It sets out the Executive's purpose and goals with respect to Regulation, Inspection and Procurement, explains how we set out to achieve these goals through the legislative programme, Regulatory Impact Assessments (RIAs), the work of the Regulatory Sub-Group of the Small Business Consultative Group (SBCG), maximising opportunities in public sector procurement and ensuring that the benefits from public sector reform are used to help reduce administrative burdens in the private sector. Section 6 looks at enforcement while section 7 looks at likely developments in the Better Regulation Agenda over the coming year.

### 3. Engagement with the European Union

Successive annual Surveys of Small Businesses in Scotland consistently report that the vast majority of the regulatory burden on Scottish business falls in areas which have an EU or UK legislative base. This includes areas such as the environment, health and safety, employment, pensions and most forms of taxation. With something like 90 per cent of the regulations that impact on Scottish business emanating from either Brussels or London it is not surprising that developments in the EU and Whitehall are of crucial importance.

The EU Commission has been pursuing a Better Regulation agenda in recent years (see Box A) and the Executive has been heavily engaged at a variety of levels in assisting its development.

The Executive strongly supported the UK Government efforts during its Presidency to make Better Regulation a key priority for the EU. Indeed many of the new initiatives coming from the EU Commission are ones which we in the Executive have been practising for years (better consultation, use of Regulatory Impact Assessments, and post legislative reviews).

The Unit works closely with the industry led Regulation Review sub group of the SBCG, Scottish industry generally, the Scottish Executive Office in Brussels, the UK's Permanent Representation to the EU (UKREP), counterparts in European Regions with legislative power (REGLEG), the European Policy Centre Task Force on Better Regulation and with officials in the EU Commission itself to influence **the EU Better Regulation agenda**.

This can involve close working with various Scottish Trade Associations at early stages of EU regulatory proposals to ensure their interests are respected. Current engagement includes work on proposed Labelling Regulations for textiles and recent proposals by the Commission on Spirit Drinks of importance to the Scotch Whisky industry. This work does not always involve less Regulation, rather it seeks to achieve Improved Regulation for Scottish industry.

## **Box A            The New EU Better Regulation Agenda**

Better Regulation has been a key priority for the past 4 Presidencies, including the UK one, and a corner stone of the new economic reform agenda post Lisbon. Better Regulation is also a priority for Gunter Verheugen, European Commissioner for Enterprise and Industry, who has pledged to make **reducing EU red tape** a trademark of his tenure in office. It was Commissioner Verheugen who admitted that there is a public perception of the EU as the “Nessie from Brussels”, a bureaucratic monster with a mania for regulation. Just as the Executive has made growing the Scottish economy its number one priority so the Barrosa Commission has made increased growth and employment the top priority in its work. It has revised the Lisbon strategy for growth and employment and stressed the policy areas that can make a decisive contribution to strengthening growth and creating new jobs. Better regulation is one of these areas.

Driven by the re-vamped Lisbon process, the Commission has sought to address the problems confronting the EU regulatory system. In early 2005, the Commission issued a Communication to the Council and the European Parliament for Better Regulation in the European Union. This Communication promoted a revised approach to regulation, which sought to ensure three things:-

- firstly, that regulatory outcomes are achieved in a way that supports and does not hinder the development of economic activity
- secondly, better designed regulations increase benefits to citizens and minimise economic costs- in line with the EU’s proportionality and subsidiarity principle and
- thirdly, the regulatory framework in the EU meets the requirements of the twenty first century.

The central objectives were the need for proportionality and the need for simplification.

The Commission was charged with simplifying and streamlining elements of the regulatory framework of the EU. Although an essentially backward looking strategy – i.e. one that addresses problems of current legislation rather than prospective legislation – this initiative is an important step in lessening the regulatory burden of EU legislation on the regulated groups. There are two aims of this project which – if successful – will both clarify and make more transparent EU regulations thereby rendering them more readable, more legally secure and consequently will facilitate greater enforcement.

The first aim is to simplify the substance of secondary Community legislation. In the main, this involves both a simplification of the legislation itself (which if substantive in effect may require the enactment of new, or amendment to pending, legislation), and lessening the administrative burden on both public and private parties arising from the implementation of EU legislation (particularly Directives). The EU legislation selected for simplification is based on a sectoral appraisal of the relative burdens imposed on user communities.

The second aim is to reduce the volume of the Community body of legislation – the *aquis*. There are three ways of achieving this: (i) *consolidation* of secondary EU legislation by unifying the basic legal text and all amending acts in a single text, but not involving the adoption of a new legal instrument; (ii) *codification* which requires new EU legislation that incorporates and repeals the previous regulatory instruments but without changing their substance and; (iii) *repeal* of EU legislation which is unnecessary, irrelevant or obsolete.

The Commission's commitment to simplification of legislation was further enhanced in its Communication of 25 October 2005 (COM (2005) 535) which launched a 3-year action programme to strengthen its regulatory reform agenda. In that document the Commission elaborated a greater use of *recasting* as a means to both clarify and simplify existing EU legislation. Significantly, however, the Commission goes further in its new proposals and advocates greater reliance on: (a) *co-regulation* whereby an industry will voluntarily commit itself to observe specific standards, (b) *standardisation*, by which EU-wide industry standards will be set by standardisation experts which prescribe safety and performance requirements of specific classes of goods and with which producers voluntarily comply thereby avoiding the need for EU legal acts, and (c) greater use of *Regulations* rather than Directives as the preferred EU regulatory instrument thus avoiding the pitfalls long associated with the transposition, implementation and enforcement of Directives.

This process of simplification and streamlining has led to the withdrawal of 68 items of pending EU legislation and the tackling over the next 3 years of 1,400 rules and regulations which businesses have indicated are the most burdensome to them.

The Scottish Executive has a policy of avoiding unnecessary and inappropriate Gold Plating of EU regulations. Nevertheless the transposition of EU rules in areas such as the environment has in the past caused adverse comment and suspicion that Scotland goes further than necessary or desirable. The Scottish Parliament's European and External Relations Committee, led by the former Deputy First Minister, Jim Wallace, is investigating the enforcement of European Directives affecting Scottish interests. He will be looking at whether European Directives have been appropriately transposed and implemented in Scotland based on a scrutiny of a set of specific examples. He will report to the Committee on whether they appear to be transposed or implemented more strictly than their terms require or compared to England and Wales or other parts of the EU. We will co-operate with that study. (For further details see the Next Steps section of this report.)

On a similar vein the Chancellor of the Exchequer announced in his Pre Budget Report in December 2005 that Neil Davidson QC, the Advocate General for Scotland, will work with the Better Regulation Executive to scrutinise aspects of UK law on enforcement that go beyond what is required by the EU so that they can be addressed. We have already engaged with this review to ensure Scottish interests will be fully taken into account in his report.

Despite these continuing concerns about EU Regulation some major achievements in the areas of EU regulatory reform were delivered in 2005.

Where the Executive is responsible for directly transposing EU regulations it has directly involved Scottish stakeholders in the implementation process. A recent example of good practice concerning the Common Fisheries Policy is illustrated below.

### **Example of Good Practice 1: Example of Stakeholder Engagement in Transposition of EU Regulation**

#### **Common Fisheries Policy: Regional Advisory Councils (RACs) and Better Regulation**

##### **Background and Progress**

The RACs are provided for by the reform of the Common Fisheries Policy (CFP) from 2002. They provide a forum for fisheries stakeholders to work with each other and with government and scientists on issues of fisheries management. These stakeholders are mainly from the EU fishing industry, and also include environmental NGOs and other interest groups. The Scottish Executive supports the work of the RACs in order that they should be successful institutions and so that Scottish stakeholder views can be effectively represented through them.

There are three RACs of major interest to Scotland: the North Sea RAC, the North Western Waters RAC and the Pelagic RAC. They all met in 2005 and agreed advice to the European Commission and EU Member States on both the Total Allowable Catch (TAC) and Quota Regulation and other issues of importance. This is a positive step; especially as communication and agreement between fisheries stakeholders has in the past been an area of great difficulty.

##### **Better Regulation through the RACs**

The RACs contribute to better regulation due to the way they involve stakeholders in the implementation of key European Union fisheries regulations. The TAC and Quota Regulation is one of the most complicated industrial regulations in the EU. The Scottish Executive supports the RACs as a way of helping fisheries stakeholders become involved in this and other fisheries regulation on a regional basis. The RACs do not have fisheries management powers, but they can offer advice to the Commission and Member States if it has been agreed in the RAC. Agreement in the RAC is by consensus, and on a sound scientific basis following the principles of sustainability. In this way, the Commission can set the broad context of regulation, and the RACs can advise on the best form of implementation.

The Scottish Executive has high hopes that in time the RACs will take on more powers, allowing stakeholders to increase their influence in fisheries regulation. Ultimately, this should lead to a regulatory environment that is more in line with the needs of those subject to the regulations, the fisheries stakeholders.

One major area of simplification of EU Regulation is the Common Agricultural Policy. Five main separate schemes have been replaced by one, thereby reducing the number of forms which farmers have to fill.

EU Directives and Regulations must often be implemented through domestic Scottish legislation. While the formal consultation process remains a vital means of ensuring business views can be heard we have supplemented it with a series of more targeted engagement with business and business organisations. One good example of this was the review of industrial plants under the Part B regime of the Pollution, Prevention and Control Regulations.

**Example of Good Practice 2: Targeted Consultation on Transposition of EU Regulations**

**THE POLLUTION PREVENTION AND CONTROL (SCOTLAND) REGULATIONS 2000 – PART B REVIEW**

The Review launched by the Executive in February 2006 recognises the importance of regulating Scottish businesses in a way that does not over burden industry. The review seeks to balance the interests of environmental protection and the burdens on industry. The intention of the review is not to remove from regulatory control any activities that are a significant source of air pollution and which would compromise air quality objectives but rather to ensure that regulatory controls are proportionate and linked to the actual or potential harm to the environment and human health. The review will examine whether there are alternative approaches that deliver environmental improvements in a way that does not place unnecessary regulatory burdens on business

The review will focus on regulatory regimes that control emissions to air from industrial activities. These processes are currently regulated under the pollution, prevention and control regime (PPC) and the Environmental Protection Act 1990 by the Scottish Environment Protection Agency (SEPA).

The review is being carried out in 2 stages. The initial consultation will focus on draft criteria to be used to assess the scope for simplifying or employing alternative regulatory approaches. A second consultation will publish the results of the review for which the criteria have been developed.

The PPC regime, which will replace the regulatory controls under the 1990 Act by 2007, is designed to ensure that industrial sites are properly permitted and monitored, and meet local air quality standards.

The current regulatory controls have been in place for over 15 years. Many of the industrial processes represent a relatively low environmental risk and the review will examine whether existing levels of controls are appropriate and proportionate.

The review is being carried out in conjunction with the Department for Environment, Food and Rural Affairs and the Welsh Assembly Government. A collaborative approach is being taken because it is recognised that uniform and consistent regulatory controls throughout Great Britain are important to business, and to mitigate against regulatory differences that might otherwise occur as a result of the review. The review will look at:

- 1) whether the PPC regime is still the most appropriate way to regulate these businesses;
- 2) whether it would be possible to simplify procedures; and
- 3) whether alternative regulatory approaches could be used.

Finally, we have been actively engaged in improving the climate of better EU regulation over the past year by fostering better links between Scottish business and EU Regulators.

Recent examples include:

- Manuel Santiago, Principal Advisor in EU Commission Directorate General for Enterprise addressed the Business in Parliament Conference in September and earlier in the year his staff visited the Executive.
- Our Office in Brussels is following the Better Regulation agenda closely and is promoting links with the new European Policy Centre Task Force on Better Regulation headed by former Czech Commissioner Pavel Telicka. The First Minister met Mr Telicka in October.
- Sir Ken Collins, Chairman of SEPA, has accepted an invitation from Commissioners Verheugen and Dimas to become a member of the High Level Group on Competitiveness, Energy and Environment. One of the objectives of this Group is to examine how best to create a more stable and predictable regulatory framework for business in the EU.
- The Executive commissioned a research project relating to the clarity and transparency of European Union regulations on business at both the member state and sub-member state level. This study provided an independent review of the key issues and evidence for discussion at a sub-rosa in Brussels on 1st December 2005 just after the last Competitiveness Council under the UK Presidency. The full report and conclusions can be viewed at [www.scotland.gov.uk](http://www.scotland.gov.uk)

## 4. The UK Dimension

The Better Regulation agenda is being taken forward in Whitehall following a number of recent reports and announcements. The main strands are documented in Box B.

### Box B The new UK Better Regulation Agenda

(1) The **Hampton Review** on regulatory inspections [Reducing administrative burdens: effective inspection and enforcement [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)] considered the scope for reducing the administrative burden of regulation on businesses imposed by independent regulators by promoting more efficient approaches to regulatory inspection and enforcement, without compromising regulatory standards or outcomes.

(2) The report of the **Better Regulation Task Force (BRTF)** [Regulation – Less is More. Reducing Burdens, Improving Outcomes, [www.brc.gov.uk](http://www.brc.gov.uk)] presents options for cutting the administrative costs of regulation to business.

The BRTF report recommends: - The Dutch approach to reducing administrative burdens – this approach has three components (i) *measurement* of the burden (adopting the Standard Cost Model), (ii) commitment to a *target* for reducing administrative burdens, and (iii) an organisational *structure* that provides incentives to achieve the target.

A “*One In, One Out*” rule for regulation – to provide a better balance between the creation of new measures and the *simplification* of existing rules and regulations.

(3) In the Budget 2005, the Chancellor of the Exchequer announced reforms to reduce the regulatory burden on enterprise, including a new risk-based approach to inspection and enforcement, streamlining regulatory structures and increasing accountability (following the recommendations of the Hampton Review) and new targets for reducing the administrative burden of Government regulations (following the recommendations of the Better Regulation Task Force Report).

(4) Following this announcement, a **Better Regulation Action Plan** was published outlining details of a risk-based approach to regulation to break down barriers holding enterprise back. [[www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)]

(5) The establishment of the **Better Regulation Executive (BRE)** (itself a fulfilment of a Hampton recommendation) within the Cabinet Office in May 2005. The BRE is tasked with taking forward the Government’s better regulation agenda, including implementing the recommendations of the Hampton and BRTF reports [[www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)].

(6) The **Legislative and Regulatory Reform Bill (LRRB)** – was introduced in Westminster on 11<sup>th</sup> January 2006 - will replace the Regulatory Reform Act 2001, so that it is easier to remove or amend outdated or unnecessary legislation and also to put the principles of risk-based enforcement on the private sector on a statutory basis. These provisions do not relate to devolved matters. The LRRB does three things: First, it widens the circumstances in which Regulatory Reform Orders can be used to amend primary legislation. These Orders cannot be used to make any provision which would be within the legislative competence of the Scottish Parliament, except for incidental, consequential, transitional or supplemental amendments to legislation within legislative competence which have a reserved purpose. Second, the LRRB gives a power to make a statutory code of practice on regulatory practice, and sets out a series of regulatory principles. The code and principles will not apply to any regulatory function exercisable in Scotland, which relates to devolved matters. Finally, the LRRB will widen the powers available to the Scottish Ministers to implement EC obligations thereby streamlining the way in which European Community law is implemented in domestic legislation.

(7) As recommended in the Hampton Review, the Better Regulation Executive have commissioned a comprehensive **Review of Regulatory Penalty Regimes** under the guidance of Professor Macrory, Professor of Law at University College, London which is due to report in late 2006 [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk).

The aim of the Review is to bring the penalty system into line with the risk-based, proportionate model of regulation as recommended by Hampton Review and will consider options that would add to the regulators' enforcement toolbox, broadening the flexibility available to both regulators and the judiciary to better meet regulatory objectives and improve compliance. The Review is not a blanket strengthening of penalty regimes. The starting point of the Review is the recognition of the need for education and advice to increase compliance. The Review does not seek a shift of regulators' priorities towards pursuing more prosecutions at the expense of appropriate advice etc. But, effective sanctions also play a critical role in the regulatory process (credible threat for persistent offenders). The Call for Evidence phase (December 05 – February 06) is seeking views from regulators, business and magistrates. The aim is to produce a consultation document in Spring 2006 with the final report due for publication in Autumn 2006.

(8) A key concern for business identified by the Hampton Review was lack of consistency and coordination in local authority regulatory services. To address this concern, building on the work of the Local Authority Better Regulation Group (LABREG) and initial proposals for a Consumer and Trading Standards Agency (CTSA), the Government announced the establishment of a **Local Better Regulation Office (LBRO)** in the Chancellor's pre-budget report. The LBRO will not be a new regulator. It will have a clear central mission to minimise burdens on business and work in partnership with local authorities and the national regulators to deliver a risk-based approach to business inspection and enforcement, driving up performance standards within the wider local government performance framework. The LBRO, working with the national regulators, will ensure a single coordinated set of priorities for local authority regulatory services covering trading standards and environmental health. It will secure improved consistency and coordination for all businesses, particularly those that operate across local authority boundaries, building on the Home Authority principle.

**The Office of Fair Trading (OFT) will take on the other roles envisaged for the CTSA building on Hampton**, and will work with LBRO and other national regulators to drive through the Hampton Principles.

The Improving Regulation Unit has been engaging directly with the BRE, DTI and the Macrory Review to ensure the roll out of their work takes full account of the Scottish dimension. These initiatives apply to reserved areas in Scotland but Scottish Regulators in devolved areas have been encouraged to adapt good practice, risk assessment methodology and joint inspection following from the Hampton and BRTF reports.

For further details of how the Scottish Executive intends to engage with these initiatives at UK level see section 7 “Next Steps”.

Much of the engagement between the SE and Whitehall Departments in Better Regulation takes place directly between the relevant policy area working to the principles of good regulation rather than through the Improving Regulation Unit. However, the Industry led SBCG sub group has intervened in reserved areas (for more details on this group see the next section on “How Improving Regulation is Promoted in Scotland”). Recent interventions have helped resolve problems of licensing sub-sea submersibles operating in the North Sea oil industry and assisting awareness raising of a new open general export licence scheme which came into force in September. This helps maintain North Sea companies’ competitive position against oil exploration elsewhere in the world by removing unnecessary costs.

The Group also helped publicise awareness among Scottish employers of the CD Rom package (featuring tutorials, guidance and Statutory Maternity Pay (SMP) calculators) and helpline run jointly by DTI, Inland Revenue and Jobcentre Plus on Maternity/Paternity legislation.

We continue to work with other Whitehall Departments to promote communications and advice to Scottish businesses on UK legislation.

### **Example of Good Practice 3: Business Advice Open Days: HMRC**

We have worked closely with HMRC and the Enterprise Networks (HIE, SEn and the Local Enterprise Companies) on planning the Business Advice Open Days and the programme of seminars that have taken place since 2002. The Executive has now sponsored in total eight events: in 2005 these events were held in Stirling and Glasgow. The events are offered free of charge to attendees and comprised a number of manned stands with literature supported by a range of seminars/workshops. The main regulatory departments were well represented – HMRC; Office of Fair Trading; Health & Safety Executive with stakeholders like Business Gateway (in the Scottish Enterprise area). Businesses were offered an opportunity to meet experts informally, obtain advice and information on a range of statutory and other legislative requirements and on various aspects of business support.

## 5. How Regulation, Inspection and Procurement is promoted in Scotland

### Purpose and Goals of the Better Regulation Agenda

Improving Regulation, Inspection and Procurement has a major role to play in delivering the Executive's commitment to grow the Scottish economy by improving the business environment in Scotland. The objectives of the Better Regulation agenda in Scotland are set out in Box C.

#### **Box C: The Goals of Regulation, Inspection, Procurement and Public Sector Reform**

##### **Regulation**

- **A sound and appropriate regulatory environment as a pre-requisite for economic and employment growth.**
- **Regulation is necessary, and desirable for business to flourish.** Business wants regulation to protect itself from those not prepared to "play the game". The challenge is to both achieve our economic, social and environmental goals and to minimise the regulatory impact on business.
- **Remove unnecessary burdens** from existing legislation and ensure that new laws afford necessary protection at lowest compliance costs to business. The goal is therefore **not deregulation** but **better regulation**.

##### **Inspection**

- Ensure our regulatory bodies adopt good practise, a risk based approach and shared inspections to achieve reductions in burden for both regulated and regulator.

##### **Procurement**

- **Maximise opportunities** to utilise public sector procurement as an economic development tool within the framework of EU rules.
- **Make the current system easier** for SMEs, social enterprise and service delivery elements of the voluntary sector to access and utilise.

##### **Public Sector Reform**

- **Ensure that benefits** from streamlining bureaucracy and improved arrangements for regulation, inspection, audit and complaints handling **are shared between public, voluntary and private sectors**. The adoption of a risk-based approach in these areas should help reduce the administrative burden on delivery agents.

The Executive's approach to date has been to adopt a targeted approach, feeding into Whitehall developments, seeking to avoid duplication and raising awareness amongst our agencies. The Improving Regulation unit works as a consultative body within the Executive

and leads on the agenda of raising awareness of potential impact on business of any existing or proposed policy or initiative. The team encourages Divisions throughout the Executive **to take into account the impact on businesses of any policy proposals they seek to introduce**. They must demonstrate meaningful consultation procedures, seek alternatives to legislation, ensure Regulatory Impact Assessments accompany legislative proposals, review legislation after its introduction, work with industry to review enforcement procedures, and encourage regulators to adopt an appropriate enforcement regime without over zealous interpretation of legal provision. The second strand to this strategy is to ensure that Scottish business organisations are kept fully informed of all proposals at an early stage and given the chance to influence these.

## **Business Friendly Legislation**

One way to improve the regulatory framework in Scotland is to use the **legislative programme** to promote bills which industry wants. There are a number of Bills before the Scottish Parliament which will improve the regulatory landscape in Scotland.

- Planning etc (Scotland) Bill

Business want a faster, clearer and altogether more modern and effective planning system. The primary objective of the Bill is to modernise the planning system, to make it more efficient and fit for purpose by introducing a clearer sense of priority and allowing different types of application to be addressed in different ways. This will make the planning system better able to facilitate delivery of the sustainable growth that Scotland needs.

- Bankruptcy and Diligence etc (Scotland) Bill

This Bill implements the Partnership Agreement commitment to legislate on personal bankruptcy and diligence to modernise the law to provide a better balance between supporting business risk and protecting the rights of creditors, and in doing so will support the commitment to promote an entrepreneurial culture and to recognise the need to support risk-taking as a means of growing the economy.

If someone has tried to make a business idea pay but without success, then the debts run up may stop them building on that experience to make a success of another plan. They are locked into failure, and that is bad for them and bad for the economy. The reforms in this Bill will help people who can re-start do so more quickly, and in that way make Scotland a better place in which to do business.

- Private Bill Committee Assessors

This inquiry by the Procedures Committee produced its report on 9 January. The Committee accepted the Executive's proposal for a change to the standing orders to give Private Bill Committees the option of appointing independent "assessors" to hear and consider objections during the first phase of Consideration Stage. The primary benefit of the proposal was its capacity to reduce the burden on MSPs in dealing with what are at times highly complex and technical matters, while also enabling the process to be conducted more efficiently. This would enable the proposal to be employed during

scrutiny of the three remaining Private Bills expected during this session – the proposed Glasgow Airport Rail Link, Edinburgh Airport Rail Link and Airdrie-Bathgate Railway Bills. Without this interim solution the chances of these 3 Private Bills being passed before the end of the current Parliamentary session (end March 2007) would be compromised.

- Introducing new legislation at behest of industry

The Executive also works with industry bodies to examine the possibilities of introducing new legislation to help them. We are currently working with the Scotch Whisky Association (SWA) to **consider whether there may be a need to legislate on definitions concerning Scottish whisky production**. Often it is business themselves who want regulation to protect themselves from those not prepared to “play the game”.

### **Regulatory Impact Assessments**

There is a self-imposed duty on the Executive to ensure that any new laws introduced achieve their environmental and societal objectives at lowest compliance costs to business, charities and the voluntary sector. The Executive sees the Regulatory Impact Assessment (RIA) as its main tool in achieving this. This system entails assessments of all proposals for regulation that have an impact on businesses, charities or voluntary bodies and all policy proposals from the Executive that have such impacts should be accompanied by an RIA. The RIA is designed to help policy makers think through the consequences of proposals, improve the quality of advice to Ministers and encourage informed debate.

It is clearly worth stressing that in certain circumstances, the environmental or societal benefits of a policy are deemed to be of such great importance that they are pursued in the knowledge that there may well be adverse consequences for certain types of business. This was the case with the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006, which came into effect on 26 March 2006 where it was recognized that the policy would have a disproportionate impact on the hospitality sector but where the health benefits were deemed paramount. The economic benefits associated with reduced mortality and morbidity were felt to outweigh any adverse economic impacts on the hospitality sector.

The Executive has adopted UK Cabinet Office guidelines on the production of RIAs but provides additional guidance on any Scottish aspects. We distinguish 3 different stages. Firstly, an initial RIA should be made at the very earliest stages of the policy development process and should accompany any submission to the Departmental Minister seeking agreement to that proposal. A partial RIA should then be prepared based upon the initial RIA but with more detailed and quantified analysis of the problem that the proposal is intended to address. A full or final RIA builds upon the partial RIA in the light of the consultation and further information and analysis.

It is Executive policy that Departments and agencies who exercise statutory powers and who make rules with a general effect on businesses should produce an RIA. The full Regulatory Impact Assessment is signed by the accountable Minister and 5 copies placed in the Scottish Parliament Information Centre when the regulation/legislation is presented to Parliament. Copies are sent to the lead Committee, Subordinate Legislation Committee, Parliament Legal

Advisers and the Improving Regulation Unit. A signed final version in HTML format is also sent to the Improving Regulation Unit in order that it can be published on our website.

The following, particular, Scottish processes also need to be carried out by Executive staff responsible for preparation of an RIA.

- All RIAs relating to all proposed regulations in Scotland which impact on business must give particular attention to impact upon **micro businesses**.
- All new forms which are introduced as a result of Executive legislation impacting on businesses must be "**test run**" with an appropriate business organisation to ensure they are as clear, simple and easy to complete as possible.

The Hampton Report made 35 recommendations 3 of which concerned RIAs. In addition some of the recommendations of the Phase 1 report of the Scottish Parliament's Subordinate Legislation Committee looking at the regulatory framework in Scotland concerned RIAs. The way the Executive intends to take forward these recommendations is discussed in the "Next Steps" section.

Our web site <http://www.scotland.gov.uk> is updated frequently to reflect the latest UK Cabinet Office guidelines and "Scottified" to reflect any distinctive Scottish aspects. RIA guidance notes and links to completed RIAs can be found here alongside links to current consultations which affect business. Lists of RIAs are shown in Appendices A (Final) and B (partial) to this report for the period mid 2004 to end 2005. Examples from 2006 can be found on the web address given above.

## **Consultation**

The Unit assists policy developers to make their consultations with business as constructive as possible. Central guidance on consultation procedures is issued from elsewhere in the Executive but the Unit offers advice to ensure business views are listened to early in the policy process, that the engagement is in a business friendly manner and that feedback is completed.

The Subordinate Legislation Committee made a number of recommendations on consultation processes in its stage 1 report into the regulatory framework in Scotland. In response, the Executive confirmed that it was firmly committed to engagement and participation but recognised that this can be demanding on all parties. Consultation therefore needed to be focused. A general presumption that consultation be undertaken on new and substantive legislation is already part of our civic participation ethos. Appropriate engagement and consultation is promoted, with Ministers and officials responsible for individual decisions on whether/how to consult. The Executive is currently looking at ways of refining its consultation processes, encouraging the use of innovative methods of inviting comment on its proposals. This will enhance the policy making process and help ensure that the development of our proposals takes account of a wide range of views. The points made by the Committee are being considered as part of this process and the Executive's *Consultation Good Practice Guidance* is due to be revised in Spring 2006.

While the formal consultation process remains a vital means of ensuring business views can be heard we have supplemented it with a series of more targeted engagement with business

and business organisations. Two excellent examples of consultation in the environment area are set out in the boxes below.

#### **Example of Good Practice 4: Pollution Prevention and Control (Scotland) Regulations 2000**

The Scottish Executive launched 3 public consultations between October 2004 and March 2005. These sought the views of stakeholders and operators on a number of deregulatory amendments to the Pollution Prevention and Control (Scotland) Regulations 2000 (PPC). As a result, 3 sets of regulations were introduced between March and October 2005 which are designed to lighten the burden of regulation for those affected by the PPC Regulations and for the Scottish Environment Protection Agency (SEPA), which is responsible for enforcing PPC in Scotland. The amendments are designed to:

- ensure that the industries affected are regulated in a manner that is proportionate to the environmental risk;
- ensure that the PPC regime does not go beyond the requirements of the IPPC Directive; and
- enable SEPA to implement the regulations more effectively and efficiently.

#### **Contaminated Land (Scotland) Regulations 2000**

The Scottish Executive held a public consultation between February and May 2005. This sought the views of regulators and stakeholders on a number of amendments to Part IIA of the Environmental Protection Act 1990 and the Contaminated Land (Scotland) Regulations 2000.

Draft Regulations setting out the Executive's proposals were laid before Parliament in November 2005. The amendments, which are mainly operational or technical in nature, are designed to:

- ensure that application of the contaminated land regime does not result in land causing only trivial amounts of pollution of the water environment being identified as contaminated; and
- ensure consistency of approach in the operation of the pollution control regimes provided for under Part IIA of the Environmental Protection Act 1990 and the Water Environment and Water Services (Scotland) Act 2003.

As mentioned in Section 3 the need to legislate often comes from the EU, with Directives or Regulations then having to be implemented through domestic legislation. One recent example is the Water Framework Directive (WFD) which also illustrates how difficult it can be to achieve agreement.

### **Example of Good Practice 5: The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR)**

CAR was passed by the Scottish Parliament on 1 June 2005 designed, for the first time, to protect Scotland's rivers and lochs from the effects of abstractions, dams and engineering works, as well as polluting discharges. The new Regulations will be of particular importance to sectors such as agriculture, hydro-power, distilleries and fish farms. CAR is designed to enable SEPA to deliver major improvements in the water environment, to not only provide amenity and recreational benefits but also direct economic benefits for industries dependent on good water quality, as well as indirect benefits for industries that depend on Scotland's reputation as a high quality environment.

It remains the case that while the whisky industry remains implacably opposed to some aspects of the implementation process, nevertheless we have engaged with them throughout the process and have tried, and in some cases, succeeded in addressing their concerns. Distillers are represented on the **National Stakeholder Forum (NSF)** by the Scotch Whisky Association (SWA). The NSF was established to provide advice to Scottish Ministers on the implementation of the WFD. They have therefore been **consulted** throughout the development of the Regulations over the last **two years**. In addition, there have been a number of **formal consultations**, including the recent charging scheme consultation. Furthermore, Ministers and officials have held a number of **individual meetings** with distillers and the SWA to discuss specific concerns.

In developing the CAR, the Executive engaged in an extensive dialogue with industry. It remains committed to maintaining dialogue with all stakeholders to ensure that we achieve an evenhanded approach to the legislation and the SEPA charging scheme. Although the distilling industry remains unhappy with aspects of the implementation process, we both share the view that regulation should always be proportionate and minimise the impact on compliant, successful businesses. The Executive in introducing CAR, and SEPA in their implementation, have avoided "gold plating". What SEPA has done, and the way it has done it, is necessary to meet our EU obligations. The implementation and enforcement of the Regulations and licensing scheme will be kept under review in the first implementation phase. Ministers are committed to continue to explore with SEPA mechanisms through which its operational procedures can be adjusted to minimise any adverse impact for Scotland's key sectors such as distilleries.

### **Existing legislation: Asking Business about their concerns**

Before we can begin to address the existing regulatory burden on Scottish businesses, we need to know what regulatory burdens are of most concern to them. With the help of ETLDD's Analytical Service Division we are improving our understanding of the specific regulatory burden on Scottish business. For the past few years we incorporated a series of regulatory questions into our annual omnibus survey to ask small businesses in Scotland about the most significant obstacles they face. The latest results for 2003, published on 13 June 2005, show that in line with findings for the whole of the UK the three obstacles cited by the largest proportion of all respondents (around two-fifths in each case) were competition, regulations and the economy. This suggests there is no additional "Scotland only" Regulation that causes business a significant problem.

The proportion of firms that cited regulation as being an obstacle to the success of their business increased with the size of the business, with 68 per cent of those with between 50 and 250 employees mentioning regulations, compared with 45 per cent of those with one to nine employees and 38 per cent of those with no employees.

When asked to say which of the obstacles was the greatest to the success of their business respondents in the Highlands and Island and in the primary sector were relatively more likely to cite regulations. Businesses that had been in existence for three years or less were less likely to mention regulations (6% compared to 19% of those in business for more than ten years). The full report of the survey can be accessed at [www.scotland.gov.uk](http://www.scotland.gov.uk).

In next year's survey we have included a new question to help establish which Regulations businesses feel are most burdensome. This will provide us with information to prioritise action and benchmark against others.

### **Reviewing existing legislation: Regulatory Sub-Group of the Small Business Consultative Group**

The Small Business Consultative group meeting on 13 December 2004 established a sub-group to look in greater depth at regulation. The remit was to investigate ways of improving the whole regulatory process by selecting specific areas of regulatory activity, examine their purpose, terms, implementation and enforcement together with their impact on business costs and thereby gain a view of their overall effectiveness. The Group would engage with business practitioners, enforcers and advisers as well as policy makers outwith ETLTD to ensure as wide a spectrum of opinions and experience as possible were captured. The Group is chaired by Professor Russel Griggs of the CBI and includes representatives from the Federation of Small Businesses, the Forum of Private Business, The Scottish Chambers of Commerce and the Scottish Trades Union Congress. The Scotland Office participates in matters concerning UK legislation/regulation and we have also involved representatives of the EU Commission.

The Group identified 5 different categories of legislative type and sought examples from business practitioners of specific problem areas in each type. The Group looked at what the legislation was set in place to do, the legislative process and how it was implemented. It picked examples direct from business practitioners but they sought common themes that could assist policy makers, enforcers and business across all types of policy subject, legislative background and monitoring/enforcement/ inspection regime.

In areas of **devolved competency** the **Regulatory sub –group** has secured:

- improvements in co-operation between private sector care homes, Local Authorities and the Care Commission that helped reduce burdens on all three;
- a Health Department commitment to undertake to review the RIA in their consultation on maximum Care Commission fee levels;
- the Care Commission review of Registration and Inspection processes; and
- a Commitment from the Scottish Environmental Protection Agency's (SEPA) to:

- review its SME representation on stakeholder groups for PPC, Water Framework, Emissions, Waste etc;
- seek the Sub-Group's comments on its enforcement strategy and effective regulation review;
- ask the Sub-Group to input into its transposition work on the EU's Environmental Liability Directive;
- participate in a Scottish enforcement forum with COSLA and other enforcers such as FSA or HSE once convened by BRE/SE; and
- jointly review with the Sub-Group forthcoming EU Regulation reviews such as the IPPC and the Environmental Liability Directive.

Its successes in areas of reserved competency in the sub-sea sector and maternity and paternity rights were described earlier in this report on page 11.

### **Improving Inspection and Review**

The core Departments of the Scottish Executive tend to be responsible for policy development but the implementation of those policies together with any enforcement and compliance with legislative provision tends to be undertaken by either Local Authorities, Non Departmental Public Bodies or Agencies of the Scottish Executive. The enforcement aspect is covered in part 6 of this report but enforcement is only part of the story. We encourage our Executive Agencies to engage directly with business stakeholders in an open manner. Our Executive Agencies and Non Departmental Public Bodies have taken steps to improve the way that regulation and enforcement is applied. An example of this comes from the SEPA.

### **Example of Good Practice 6: Scottish Environment Protection Agency (SEPA) and Better Regulation**

The Scottish Environment Protection Agency (SEPA) stepped up its efforts to take forward its Effective Regulation project with the appointment of a Better Regulation Manager.

SEPA also increased its focus on learning from other regulatory regimes and countries, and played substantial roles in a number of European wide networks, with the lessons learned being incorporated into SEPA's improvement plans.

The implementation of the Water Framework Directive in Scotland made major strides, with extensive input from business into designing a regulatory regime based on risk. The implementation of the Directive will eventually replace 5 European directives with one.

SEPA also reviewed its enforcement policy, with a view to improving its clarity and focus. Two business focus groups were convened to assist in the consultation process, which will be followed up with a further consultation on the draft policy.

SEPA developed and rolled out a training course for staff, based on its principles for regulation. The principles set out SEPA's vision for regulation, and include a commitment to awareness raising and information provision for business. The course is mandatory for all new regulatory staff.

SEPA is now developing a second course for staff on enforcement principles, which will ensure that all regulatory staff are trained on the Government's enforcement concordat.

Another example is provided by Visit Scotland.

### **Example of Good Practice 7: VisitScotland and Better Regulation**

**Creation of Integrated Tourism Network** – Creation of a network of Business Relationship Managers which provide a single point of contact for any tourism business to access advice and marketing support from VisitScotland. Creation of a set of Business Opportunities Packages available from VisitScotland so that businesses can choose a marketing package tailored to their needs, rather than the one-size-fits-all membership approach.

**Improvements to the VisitScotland Challenge Fund** – Opportunities for groups of businesses to access additional funds for marketing. The application forms and procedures have been streamlined for this Fund.

### **Reducing Administrative Burdens on Business**

Businesses in Scotland recognise that the bulk of regulations that impact significantly on business come from Europe (e.g. environment) or Westminster (e.g. employment, tax) and acknowledge that there is a limit to what the Executive alone can do to help matters. Nevertheless, we recognise the importance of listening to our stakeholders, particularly where this can lead to reduced bureaucracy in matters of a devolved nature.

Examples from ERAD over the past year include the Review of Aquaculture Regulation which identified 23 specific areas of regulation amenable to further streamlining of which a priority short list of 11 initiatives were proposed for immediate action covering areas such as the creation of fair and friendly planning regulations, minimising bureaucratic procedures undertaken by industry and SEPA to their mutual advantage and initiatives to provide the industry with access to veterinary medicines. These are now being pursued with the relevant regulatory agencies.

It is important for Government to tackle the administrative costs of regulation - the costs imposed by the enforcement activities of regulators through form filling and inspection. The Analytical Services Division of ERAD has undertaken a number of initiatives recently to reduce the administrative and statistical burdens of form filling on Scottish farmers. These are outlined in the box below.

**Example of Good Practice 8: Environment and Rural Affairs Department (ERAD): Reductions in Administrative Burdens**

The **Corporate Data Model** (CDM) was fully implemented in ERAD in 2004. The purpose of the new model was to improve and simplify procedures for customers to notify us of changes to their farm and business details. The core data for the model is CPH (County, Parish, Holding) number for each farm showing name, area, land classification, land tenure and the correspondence contact details of name, address, telephone, fax and email address. As well as the core data the database holds information about businesses, schemes, field identifiers, census and a history for the specified holding.

Area offices are responsible for updating the majority of the data and the farmer's first port of call should be them. Any information received elsewhere will be passed to area offices to process.

With other stakeholders in mind there have been modifications and additions over the last year to improve the information we collect and hold in this database.

**European Farm Structure Survey** online pilot. In March 2005 the agricultural census team ran a pilot online survey for the European Farm Structure Survey. This survey was used as a pilot as the majority of questions were yes/no answers. Unfortunately not all our customers were able to take up this offer to complete online as a business reference is required for the Government Gateway sign on. However it was offered to approximately 10000 customers. Although there had been some initial interest in online surveys we were uncertain how many people would use this service; if indeed any. The response was less than 1% but the feedback from those who did use it was encouraging.

## **Promoting Public Sector Procurement**

One of the major messages that emerged from the Business in Parliament Conference in September 2005 was the difficulty that Scottish small and medium sized companies had in accessing public sector contracts. This is also a significant issue for social enterprises and the element of the voluntary sector involved in public service delivery. Public sector procurement processes can be complex and expensive to bid against and smaller firms can be discouraged from bidding. In addition, qualification requirements for participation in public procurement processes can be excessively onerous and smaller firms may be excluded even where they are capable of performing the contract. The Executive wishes to simplify and streamline procurement procedures wherever possible, making it easier for suppliers to bid and new ways of doing this are outlined below.

### **Example of Good Practice 9: Scottish Executive Government Procurement**

#### **Consolidated Procurement Directive**

This will become law in 2006 – the plan is to implement this Directive by means of a Statutory Instrument in Scotland which will:

1. Reinforce the requirement for adequate publicity of public sector contract opportunities;
2. A requirement for proportionality – buyers must consider relevant and necessary thresholds for selection; and
3. Making it possible for suppliers to seek remedies in the Sheriff Court rather than the Court of Session.

These measures are aimed at promoting the principals of transparency and fairness, which are central to EU Procurement rules. They are specific to Scotland.

#### **SME Forum**

We conducted a consultation on a Code of Practice between public sector buyers and suppliers and a core questionnaire, aimed at reducing bureaucracy and simplifying tendering procedures. Final amendments to these documents are underway so that we will soon be in a position to test and rollout these initiatives (2<sup>nd</sup> Quarter 2006).

A portal for central advertising of public sector contracts is also under consideration; this would facilitate access to public sector tenders.

#### **eProcurement Scotl@nd**

A key objective of the eProcurement Scotl@nd Programme is to make Scotland the easiest place to do this business. The e-Procurement Scotl@nd (ePS) service provides a single interface for transactions between suppliers and public sector customers and means that small suppliers do not have the expense of adapting to multiple systems. The e-PS system needs only a fax or telephone to use it. ePS has growing membership across the public sector in Scotland including central government, local authorities and health.

## **Promoting Public Sector Reform**

There is also widespread support for measures to streamline bureaucracy in the public sector as well as in the private sector. At Ministerial meetings with councils and other public bodies over summer 2005, a constant theme was dissatisfaction with the level of monitoring and bureaucracy associated with the Executive, and a perceived focus on inputs rather than outcomes. Reducing bureaucracy in the public sector is essential if we are to deliver better public services but this must not be at the expense of increased burdens on businesses.

Ministers are to commission an **Independent Review of Scrutiny**. The Review will examine scrutiny arrangements (ie inspection, regulation, audit and complaints handling) for devolved public services in Scotland:

- the principles and role of effective scrutiny;
- governance arrangements;
- how scrutiny can better support continuous improvement in public services;
- how scrutiny can be more efficient and better co-ordinated;
- the priorities for change in the short, and medium term; and
- any legislative or organisational changes that would be required to implement the recommendations.

The Review will focus on areas where the regulatory burden is greatest and where there are most overlaps between scrutiny arrangements. The Review will take up to 12 months and is due to begin in summer 2006.

**Streamlining Bureaucracy** is being taken forward through a number of initiatives including:

- a review of local government performance management mechanisms (including Statutory Performance Indicators but also the wider performance framework);
- an internal budget review of local government funding streams;
- The Office of the Chief Statistician is considering ways to reduce duplication and increase co-ordination of data gathering and analysis; and
- the recently published Vision for the Voluntary Sector, which identifies reducing bureaucracy as an important strand of activity moving forward.

## 6. Enforcement

The Improving Regulation Unit works with local authorities and other regulatory agencies to improve the regulatory and enforcement environment for business through the promotion of the Enforcement Concordat, which was launched by the Cabinet Office in 1998 with the Scottish Office and COSLA as co-signatories. The Concordat encourages constructive relationships between regulators and the business community in enforcement matters by advocating precepts of openness, helpfulness, proportionality and consistency.

Scotland has, to a great extent, been further ahead than the rest of the UK with the “adoption” of the Concordat very soon after launch by all Scottish local authorities who are the dominant regulators for many enforcement issues affecting business. The Unit works with COSLA to encourage improved practice across local authorities though COSLA, as a signatory itself to the Concordat, is the main source of influence on developments in that area.

The Unit has worked successfully with other regulatory agencies and Non Departmental Public Bodies to replicate the level of commitment shown by local authorities to the precepts and principles of the Concordat. The Improving Regulation Unit issues reminders bi-annually to all Executive agencies and NDPBs to encourage them to fulfil their obligations to the principles of the Concordat towards improving the regulatory and enforcement environment for business in Scotland. The regulatory sub-group of the Small Business Consultative Group is also looking at enforcement by Scottish regulators as part of its general look at aspects of the regulatory environment.

Improvement in the regulatory climate is potentially the area where the most immediate improvements for the benefit of business can be obtained. As the CBI said in its evidence to the Subordinate Legislation Committee enquiry into the Regulatory Framework in Scotland “One of the biggest sources of complaint from our members is not regulation per se but the consistency with which it is enforced and the uncertainty surrounding how the regulatory body might interpret regulation in practice”<sup>1</sup>

The unit promotes the Enforcement Concordat in both enforcement and business circles and it is committed to encouraging its effective working.

There are plans to supersede the 1998 Enforcement Concordat at UK level with a new statutory Compliance Code for reserved functions.

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<sup>1</sup> Subordinate Legislation Committee, Official Report, 8 February 2005, column 796

## **7. Next Steps – Regulation, Inspection and Procurement**

Over the next 12 months, the IR Unit will:

- continue to work with the industry led Regulation Review Group to help industry assess new or revised EU, UK and devolved regulatory proposals. We will assist the Group to formulate recommendations to improve the RIA process and engage Scottish business at an early stage in policy development. This will take on board proposals from the SLC Inquiry and changes in BRE guidance (if appropriate to Scotland);
- continue to work with the Regulatory Review Group to identify areas of existing Regulation or Inspection which cause Scottish business unnecessary burdens and suggest improvement;
- assist Scottish local authorities and Regulators work with the DTI and other SE colleagues and the Improvement Service on the creation of a Local Better Regulation Office;
- engage with UK wide reviews of Regulatory Penalties (Macrory) and implementation of EU Legislation (Davidson) to ensure Scottish interests are covered. We will engage, as appropriate, with the review on implementation of European Directives being undertaken by the Scottish Parliament (Wallace);
- encourage all SE Departments and agencies and Scottish Regulators to adopt Hampton as good practice and appropriate regulatory simplification measures and administrative burden reduction proposals;
- on 15 March 2006 the McClelland Report made a number of recommendations for the improvement of public sector procurement practices to drive up standards, to make it easier for suppliers to do business with the public sector and to ensure the best deal for the tax payer. Work is already underway to implement the proposals. A Public Procurement Reform Board, chaired by John McClelland, has been set up, as has a Public Procurement Advisory Group that will include both private sector and voluntary sector representation to work alongside the Board. Details of the initial procurement measures will be announced in late Spring 2006;
- engage with SE colleagues on Public Sector Reform to ensure changes reflect business needs; and
- engage with the implementation of the Scottish Executive's Vision for the voluntary sector to ensure that links to voluntary sector participation in service delivery are made. The voluntary sector has an important contribution to Scotland – for example as a significant deliverer of public services – a role which we are keen to grow by removing where possible and appropriate the regulatory barriers to the voluntary sectors involvement in procurement and commissioning of services

Title	Initiating Department or Agency	Summary of purpose	Final RIA dated	EU Derived
The Sweeteners in Food (Amendment) (Scotland) Regulations 2004	Food Standards Agency	Changes to the text of the Directive in order to bring it into line with other food additive directives; and changes to the conditions of use for two currently permitted sweeteners, cyclamic acid and its sodium and calcium salts (E952; “cyclamate”), and aspartame (E951).	21/12/2004	Yes
The Debt Arrangement Scheme (Scotland) Regulations 2003	Justice Department	The Regulations will provide for the implementation of a national statutory Debt Arrangement Scheme. The Scheme will assist personal debtors who are unable to settle their debts as they fall due, but who have some surplus income (i.e.: in excess of that required for minimum subsistence) with which to make instalments to enable multiple debts to be assessed with the support of money advisors and paid in accordance with a debt payment programme over a period of time	October 2004	No
The Waste (Scotland) Regulations 2004	Environment & Rural Affairs Department	The objective of the proposed amendments is to comply fully with EU Directive 91/156/EEC, and thus to provide protection to the environment and legal certainty to industrial sectors and others affected.	15/12/2004	Yes
The TSE (Amendment) Regulations (Scotland) 2004	Environment & Rural Affairs Department	To implement Commission Regulation 260/2003 which introduces measures to eradicate scrapie from farms that have a confirmed case. The measures will apply to any sheep or goat farm with a confirmed case of scrapie.	09/06/2004	Yes
Non-domestic rates: Setting the Decapitalisation Rates for the 2005 Revaluation	Finance & Central Services Department	The Scottish Executive is proposing to lower the current decapitalisation rates so that the aggregate increase in rateable value of those properties valued under the contractor’s principle is no more than the aggregate increase likely to be experienced by properties valued by other methods.	24/01/2005	No

The Water Environment (Controlled Activities) Scotland Regulations 2004	Environment & Rural Affairs Department	This is enabling legislation to begin the process of establishing arrangements and mechanisms for implementation of The Water Framework Directive within Scotland.	27/04/2005	Yes
Charities and Trustee Investment (Scotland) Bill	Development Department	<p>The proposals provide a new regulatory regime for charitable activity in Scotland and gives the Office of the Scottish Charity Regulator (OSCR) a range of powers to intervene in the activity of a charity to protect the public and the charity brand in Scotland</p> <p>Deficiencies in current legislation include gaps in responsibility between different regulators, lack of a public register of Scottish charities and lack of routine monitoring of charity activity. The regulatory regime for charities proposed in this consultation seeks to address these gaps, and to deliver a system that is fit for purpose and protects the public interest without being over burdensome or more costly than necessary.</p>	15/11/2004	No
The Tobacco Advertising and Promotion (Specialist Tobacconist) (Scotland) Regulations 2004	Health Department	To make exceptions in section 6(1) of The Tobacco Advertising and Promotion Act 2002 for Specialist Tobacconists to advertise products that are not cigarettes or rolling tobacco, in and outside special tobacconists' premises.	05/05/2004	Yes
The Shrimp Fishing Nets (Scotland) Order 2004	Environment & Rural Affairs Department	<p>The EU technical conservation regulation (Council Regulation (EC) No 850/98) came into force on 1 January 2000. Article 25 (2) of Council Regulation 850/98 (as amended by Regulation 1298/2000) requires Member States to set in place rules for the use of separator trawls (often known as veil nets) or sorting grids to catch Common shrimps and Aesop shrimps. The intention is to reduce the significant level of discards of other species in this fishery.</p>	03/06/2004	Yes
Fees for Electricity Act Consent Applications	Enterprise, Transport & Lifelong Learning Department	The proposals aim to introduce parity and improve the efficiency within the electricity consent application process. In particular, the proposals aim to alleviate difficulties surrounding fees for consent applications under the Electricity Act 1989.	30/03/2005	No

The Non Domestic Rating (Valuation of Utilities) (Scotland) Order 2005	Finance & Central Services Department	<p>For the prescribed industries rateable values, or a formula for calculating the rateable values, are set (prescribed), by Scottish Ministers. There is no right of appeal. Prescribed assessment was introduced in the post-war years due to there being very few comparable properties to which the Assessors could turn for rental evidence and the newly nationalised industries did not, in general, operate with a view to profit. Some prescribed industries (telecom and waterways) were returned to conventional valuation at the 1995 revaluation (1 April 1995). The Minister for Finance and Public Services announced on 5/11/03 that prescription would be abolished from 1 April 2005. This will mean that these industries will be treated in the same way as any other industry: valued by independent Assessors and with the right to appeal their valuation.</p>	02/03/2005	No
Non Domestic Rates: 2005 Revaluation Transitional Arrangements	Finance & Central Services Department	<p>The aim of transitional arrangements is to protect ratepayers from possible sudden sharp increases in their bills in the period immediately following the revaluation. This allows ratepayers time to plan to accommodate the true bill over a longer period.</p>	02/03/2005	No
The Food Labelling Amendment (No 2) (Scotland) Regulations 2004	Food Standards Agency	<p>The new rules make it compulsory to list, on the label, specified allergens whenever they, or ingredients originating from them, are used in foods, including alcoholic drinks, so that consumers can identify those ingredients that they may need or wish to avoid. The new rules also delete the 25% compound ingredients listing exemption and therefore make it compulsory to list all ingredients in a food with the exception of a small number of particular cases.</p>	02/11/2004	Yes
The Feeding Stuffs (Scotland) Amendment (No 2) Regulations 2004	Food Standards Agency	<p>Implements Commission Directive 2003/100/EC amends the current maximum permitted levels (MPLs) for a number of undesirable substances (i.e., contaminants) in feed; and Commission Decision 2004/217/EC, which replaces the existing list of prohibited ingredients, reflecting amendments made in other feed-related legislation, and extends the scope of the list from compound feeding stuffs to feed materials.</p>	23/09/2004	Yes

The Contaminants in Food (Scotland) Regulations 2004 - Tin in Canned Foods	Food Standards Agency	Sets maximum levels for inorganic tin in canned foods; canned beverages; and canned foods for babies, infants and young children and ensuring effective and consistent enforcement procedures.	02/12/2004	Yes
The Contaminants in Food (Scotland) Regulations 2004 - Maximum Levels for Aflatoxins in Maize	Food Standards Agency	Sets maximum limits for aflatoxins in maize to be subjected to sorting, or other physical treatment before human consumption or use as an ingredient in foodstuffs and ensuring effective and consistent enforcement procedures.	02/12/2004	Yes
The Contaminants in Food (Scotland) Regulations 2004 - Maximum Levels for Patulin in Foodstuffs	Food Standards Agency	Sets maximum levels for patulin in fruit juices in particular apple juice, solid apple products such as apple compote and apple puree and in such products intended for infants and young children and ensuring effective and consistent enforcement procedures.	02/12/2004	Yes
The Contaminants in Food (Scotland) Regulations 2004 - Dioxins in Foodstuffs	Food Standards Agency	To provide maximum levels for dioxins in hen eggs and egg products and to extend the transition period allowed for free range and semi intensive eggs to comply with the maximum level; also provides some clarification of the description of the products or the parts of the products specified in Regulation 466/2001, as amended to which the maximum dioxin levels apply. Also to ensure a harmonised approach to sampling for the official control of dioxins in whole fish by specifying the methods for the sampling of very large fish.	02/12/2004	Yes
The Plastic Materials and Articles in Contact With Food Regulations (Amendment) (Scotland) 2005	Food Standards Agency	Amends Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs. It makes routine amendments to the Community list of permitted monomers and additives and makes provision for a date to be set by which the European Commission shall establish of a positive list of additives.	01/03/2005	Yes

<p>The Food Labelling (Phytosterols and Phytostanols) (Scotland) Regulations 2004</p>	<p>Food Standards Agency</p>	<p>The draft Regulations put in place supporting measures for the domestic implementation of Regulation (EC) No 608/2004 which lays down specific requirements for the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters. Also introduce requirements for labelling of certain foods whose labelling is subject to national discretion, including foods that are not prepacked and/or in small packages.</p>	<p>10/01/2005</p>	<p>Yes</p>
<p>The Feeding Stuffs (Sampling &amp; Analysis) Amendment (Scotland) Regulations 2004</p>	<p>Food Standards Agency</p>	<p>Implementation of Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feeding stuffs (OJ No L339, 24.12.2003, p.78).</p>	<p>23/09/2004</p>	<p>Yes</p>
<p>The Building (Scotland) Regulations 2004</p>	<p>Development Department</p>	<p>The Building (Scotland) Regulations (the Regulations) set the technical standards for all buildings and building work in Scotland. They bring into force the Building (Scotland) Act 2003 (the Act) by setting functional standards for building, defining when standards apply, determining what work can be done without the need to seek a warrant and making requirements of the way such work is to be carried out.</p>	<p>22/09/2004</p>	<p>No</p>
<p>The Renewables Obligation (Scotland) Order 2005</p>	<p>Enterprise, Transport &amp; Lifelong Learning Department</p>	<p>To assess the impact of proposed changes to the ROS. These changes reflect the Executive's announcement that the ROS profile will be extended to 2015-16, and views expressed by industry on the need for a single UK recycling mechanism as well as new enabling powers set out in the Energy Act 2004. The new powers amend the ROS provisions of the Electricity Act 1989. Through these changes the Executive seeks: tradability between ROCs issued under the Renewables Obligation Order and NIROCs issued under the Northern Ireland Renewables Obligation Order (the NIRO); a reduction in the impact which any further shortfalls would have on the ROS buy-out fund; to consider the establishment of a single recycling mechanism for the three UK buy-out funds; an extension of the ROS profile; more flexibility for small generators.</p>	<p>02/02/2005</p>	<p>No</p>

Consolidation & Amendment of the Dairy Produce Quotas (Scotland) Regulations (DPQR) 2002	Environment & Rural Affairs Department	To implement EU Community legislation and introduce other changes to the milk quotas regime	28/02/2005	Yes
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order	Environment & Rural Affairs Department	To aid the enforcement of measures supporting the conservation and sustainable exploitation of fisheries resources by extending the existing provisions relating to the satellite monitoring of fishing vessels to smaller vessels and additionally requiring the provision of course and speed in each report and increasing the security and integrity of data capture and its transmission.	13/09/2004	Yes
The Building (Procedure) (Scotland) Regulations 2004	Development Department	They bring into force the Building (Scotland) Act 2003 (the Act) by setting the procedures for obtaining a warrant, presenting a completion certificate, using Approved Certifiers, and handling dangerous and defective buildings.	30/09/2004	No
The Miscellaneous Food Additives Amendment (Scotland) (No 2) Regulations 2005	Food Standards Agency	Implement, in Scotland, European Parliament and Council Directive 2003/114/EC of 22 December 2003, amending Directive 95/2/EC on food additives other than colours and sweeteners, for the fifth time.	12/04/2005	Yes
The Plastic Materials and Articles in Contact With Food Regulations (Amendment) (Scotland) 2004	Food Standards Agency	To implement two European Commission Directives, 2004/13/EC on the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs and 2004/1/EC on the suspension of the use of azodicarbonamide as a blowing agent in food contact plastics. The overall policy objective of the proposal is to secure a high level of human health and consumer interest protection, while ensuring the free movement of materials and articles intended to come into contact with food.	02/12/2004	Yes

The Building (Fees) (Scotland) Regulations 2004	Development Department	Sets out the fees to be charged in respect of (1) applications for building warrants and (2) where completion certificates are submitted under the new building standards system in Scotland. They bring into force the relevant provisions of the Building (Scotland) Act 2003 (the Act) for the charging of fees and other charges by Scottish Ministers, local authorities and verifiers in respect of the performance of functions under the Act	26/11/2004	No
The Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2004	Environment & Rural Affairs Department	These Regulations make for the enforcement in Scotland of relevant provisions of EC Regulations on certain marketing standards and provide for quality, grading and labelling as well as the production and marketing of eggs for hatching and of farmyard poultry chicks.	08/06/2005	Yes
The Contaminants in Food (Scotland) Amendment Regulations 2004 - Aflatoxins and Ochratoxin A in foods for infants and young children	Food Standards Agency	Sets maximum limits for: Aflatoxin B1 and ochratoxin A in baby foods and processed cereal-based foods intended for infants and young children; Aflatoxin M1 in infant formulae and follow-on formulae, including infant milk and follow-on milk and; Aflatoxin B1, aflatoxin M1 and ochratoxin A in dietary foods for special medical purposes intended specifically for infants.	25/05/2005	Yes
The Contaminants in Food (Scotland) Amendment Regulations 2004 - Nitrates in foods for infants and young children	Food Standards Agency	Sets a maximum limit for nitrate in baby foods and processed cereal-based foods intended for infants and young children. The maximum level applies to the products as proposed ready for consumption or as reconstituted according to the manufacturer's instructions.	25/05/2005	Yes
The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) (Amendment) (Scotland) Regulations 2005	Food Standards Agency	To amend the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 (PMRs), in order to prohibit the use of water retention agents in fresh poultry meat and thereby correct under-implementation of the EC Poultry Meat Directive 71/118.	23/02/2005	Yes
The Sea Fish (Marketing Standards)(Scotland) Regulations 2004	Environment & Rural Affairs Department	To improve the marketing of fishery products in Scotland and to ensure that our obligations under EC Regulation 2406/96 are met.	November 2004	Yes

The Food Labelling Amendment (Scotland) Regulations 2005	Food Standards Agency	Further amend the Food Labelling Regulations 1996 in so far as they apply in relation to Scotland. These Regulations implement in Scotland Commission Directive 2004/77/EC amending Directive 94/54/EC as regards the labelling of certain foods containing glycyrrhizinic acid and its ammonium salt.	20/04/2005	Yes
Petrol Vapour Recovery Phase 1 Derogation	Environment & Rural Affairs Department	To control volatile organic compound (VOCs) emissions resulting from the storage of petrol and its distribution from terminals to service stations.	29/11/2004	Yes
Housing Bill	Development Department	The objective is to intervene in an effort to address failings in the private sector housing market to bring about a more equitable outcome in each of the problems identified below at minimal additional cost to all parties concerned.	08/04/2005	Yes
The Licensing (Scotland) Bill 2005	Justice Department	To modernise the present licensing regime for the sale of alcohol. Offering a balanced package which reflects the needs of individuals, communities, business and consumers, underlined by a consistent philosophy provided through the licensing objectives.	March 2005	No
The Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005	Food Standards Agency	Replacement of the Over Thirty Months (OTM) rule with an alternative control (BSE testing) that the FSA has advised is proportionate to risk and continues to protect public health from exposure to meat from cattle infected with Bovine Spongiform Encephalopathy (BSE).	29/09/2005	No
The Materials and Articles in Contact with Food (Scotland) Regulations 2005	Food Standards Agency	To provide for the enforcement, with effective penalties, of Regulation (EC) No. 1935/2004/EEC of the European Parliament and of the Council on materials and articles intended to come into contact with food and to re-enact in Scotland, European harmonised provisions for vinyl chloride monomer and amended provisions on regenerated cellulose film.	28/05/2005	Yes

The Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005	Environment & Rural Affairs Department	This SSI allows for the enforcement in Scotland of the provisions of Annex IVa to Council Regulation 27/2005 restricting, from 1 February 2005, days at sea by Scottish fishing vessels in certain areas of the North Sea, the Irish Sea, the Eastern Channel and off the west coast of Scotland, (the Cod Recovery Zone), when carrying certain fishing gear types. It also provides for the enforcement of the monitoring, inspection and surveillance provisions set out in Council Regulation 423/2004.	28/02/2005	Yes
Common Agricultural Policy Single Farm Payment Scheme and Support Schemes (Scotland) Regulations 2005 - incorporating the Scottish Beef Calf Scheme Regulations	Environment & Rural Affairs Department	To introduce a scheme that allows producers to make decisions in response to the market and not in response to subsidy scheme rules or incentives, whilst adhering to environmental standards and sustainable farming practices.	09/03/2005	Yes
The Tryptophan in Food (Scotland) Regulations 2005	Food Standards Agency	These draft regulations continue to prohibit the addition of tryptophan to food, and the sale, offer for sale and exposure for sale of food containing tryptophan, subject to exceptions. They add a new exception from the prohibitions of the original Regulations in respect of laevorotatory tryptophan (L-tryptophan) added to food supplements if certain conditions are met with regard to purity and recommended daily dose; and add a qualification to the existing exception in respect of L-tryptophan or its salt added to foods for a particular nutritional use in that the added substance must comply with specific purity criteria.	28/09/2005	Yes
Fossil Fuel Levy (Scotland) Amendment Regulations 2005	Enterprise, Transport & Lifelong Learning Department	Will amend the Fossil Fuel Levy (Scotland) Regulations 1996 (the original Regulations) to allow for a nominated person to administer fossil fuel levy payments. Currently, payments from the Scottish fossil fuel levy fund can only be made to and distributed by the two Scottish supply successor companies (SSCs) – Scottish Power and Scottish and Southern Energy. The Scottish Regulations also require some additional amendments to bring them in line with changes that have been made to the equivalent England and Wales Regulations.	08/11/2005	Yes

Electricity from Non-Fossil Fuel Sources Saving Arrangements (Amendment) (Scotland) Order (2005)	Enterprise, Transport & Lifelong Learning Department	Will allow SRO output to be auctioned by a third party. Currently, SRO output in Scotland is contracted to the two Scottish supply successor companies, Scottish Power and Scottish and Southern Energy. The implementation of the British Electricity Trading and Transmission Arrangements (BETTA) on 1 April 2005 introduced a GB wide trading system for and removed the barriers which prevented Scottish renewables output being auctioned on a GB wide basis.	08/11/2005	Yes
The Gaming Act (Variation of Fees) (Scotland) Order 2005	Finance & Central Services Department	To increase the fees for the grant, renewal and transfer of a casino and bingo club premises license in line with the recommendations of the Gaming Board.	07/06/2005	No
Private Landlords - Antisocial Behaviour Notices	Development Department	To ensure that local authorities have available an effective power and that they will use it in an appropriate way for Antisocial Behaviour Notices.	09/11/2005	No
Private Landlords - Registration	Development Department	To establish a system which will provide information on landlords and a means for dealing with the worst landlords, while having the minimum burden on applicants generally and on local authorities.	09/11/2005	No
Charging for Certification Services provided in respect of Cereal Seeds	Environment & Rural Affairs Department	The purpose of the Regulations is to introduce into the seed certification arrangements a small number of statutory changes required by EC legislation.	08/06/2005	Yes

Transposition of Article 4 of the Public Participation Directive (2003/35/EC) in Scotland	Environment & Rural Affairs Department	To transpose into national legislation, by regulation, the amendment of Directive 96/61/EC (concerning integrated pollution prevention and control, otherwise known as “the IPPC Directive” made by Article 4 of Directive 2003/35/EC, known as the Directive on public participation or “the Public Participation Directive”	13/10/2005	Yes
Registration of Sellers and Buyers of First Sale Fish and Designation of Auction Sites (Scotland) Regulations 2005	Environment & Rural Affairs Department	The removal of regulation 4(2) is intended to avoid a discriminatory regime which places stricter controls on Scottish fishermen than their counterparts elsewhere. The amendment to regulation 8(2) (b) is intended to cover the sale of certain high value species that are landed in small quantities and was requested by industry. A 50 kilogram threshold would have left many such sales outwith the scope of the regulations.	08/09/2005	No
The Sea Fisheries (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005	Environment & Rural Affairs Department	The Order amends The Sea Fisheries (Enforcement of Community Control Measures) (Scotland) Order 2000 to put into place a new regime for fishing effort West of Scotland (usually referred to as “Western Waters”).	08/11/2005	No
The Food Hygiene (Scotland) Regulations 2005	Food Standards Agency	The new EU legislation has, as its primary objective, the optimisation of public health protection by improving and modernising the previous sector specific EU legislation. National legislation is neither required nor permitted, to give effect to the EU Regulations, beyond providing for their enforcement in the UK. However, there are a number of areas where the EU Regulations either require or permit Member States to adopt certain provisions in their national law and these Regulations address those aspects.	07/10/2005	Yes

## PARTIAL RIAs ( from mid 2004 to end 2006)

## Annex B

Title	Dept	Summary of purpose	Draft Received	EU Derived
Crofting (Scotland) Bill	Environment & Rural Affairs Department	The draft Bill proposal would provide for a comprehensive map-based Register of Crofts which would give certainty as to extent and boundaries of each individual holding.	19/05/2004	No
Implementation in Scotland of the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Postal Services Sectors - The Utilities Directive - 2004/17/EC	Finance & Central Services Department	The public procurement rules seek to ensure that utilities award contracts in an efficient and non-discriminatory manner. Directive 2004/17/EC aims to simplify, clarify and modernise the existing EU rules for procurement by the utilities.	08/07/2004	Yes
Implementation in Scotland of the new Public Sector Procurement Directive 2004/18/EC	Finance & Central Services Department	Brings together the three separate existing Directives for public works contracts, public supplies contracts and public services contracts into a single text. There are new provisions facilitating the use of e-procurement, providing for competitive dialogue in the award of complex contracts, and explicitly providing for the use of framework agreements. There is also greater clarity on the extent to which social and environmental issues can be given consideration during the procurement process.	08/07/2004	Yes
The Smoke Flavourings (Scotland) Regulations 2004	Food Standards Agency	This measure is to ensure that a high level of protection of human health is achieved and the interests of consumers are maintained by enforcing in Scotland the provisions of Regulation (EC) No. 2065/2003 of the European Parliament and Council on smoke flavourings used or intended for use in or on foods. This Regulation establishes Community procedures for the safety assessment and authorisation of primary products used in or on foods or in the production of derived smoke flavourings for use in or on food.	13/09/2004	Yes
Proposal for a Recast Commission Directive on Infant Formulae and Follow-On Formulae	Food Standards Agency	Consolidates existing Community legislation on the composition and labelling of infant formulae and follow-on formulae and the marketing of infant formulae. It also introduces changes that update the text taking into account the latest scientific advice on the essential composition of infant formulae and follow-on formulae and ongoing discussions at the international level in the Codex Alimentarius forum.	14/09/2004	Yes

Prohibition of Fishing for Scallops (Scotland) Order 2004	Environment & Rural Affairs Department	The present proposals are intended to limit catches of juveniles, thus allowing them to grow into adults and spawn before being caught. They are also intended to limit overall catches, thus helping the stock to remain within sustainable levels.	29/09/2004	No
Producer Responsibility for Non-Packaging Waste Agricultural Products	Environment & Rural Affairs Department	The proposed options are intended to provide an efficient and cost-effective means of introducing a system for collecting and recycling non-packaging waste farm plastics.	05/10/2004	No
Proposal for a Directive of the European Parliament and of the Council amending Directives 95/2/EC on Food Additives Other Than Colours and Sweeteners and Directive 94/35/EC on Sweeteners For Use In Foodstuffs	Food Standards Agency	Has three main purposes. The first is to amend Directive 95/2/EC to restrict levels of nitrites and nitrates and withdraw certain of the parabens taking account of EFSA's opinions. The second is to make permanent an existing suspension of gelling agents in jelly mini-cups in Commission Decision 2004/374/EC. The third is to update existing entries in Directives 95/2/EC and 94/35/EC to take account of SCF and EFSA opinions on new additive approvals, and to extend the uses of existing additives in line with industry's requests and that of a new Member State, Hungary. will introduce a number of amendments to the current legislation – The most significant amendments will: i. permit, for natural mineral water, the indication 'suitable for the preparation of infant food' and on the grounds of consistency, extend these provisions to spring water and bottled drinking water, ii. make it an offence to sell bottled water labelled as suitable for infant feeding without complying with the specified labelling and compositional requirements and iii. introduce other amendments to national provisions which will: (a) make the limits for pH more appropriate for bottled water (b) re-introduce a provision to limit bromate in natural mineral water that is not subjected to the authorised treatment	01/11/2004	Yes
The Natural Mineral Water, Spring Water and Bottled Drinking Water Amendment (Scotland) Regulations 2005	Food Standards Agency	will introduce a number of amendments to the current legislation – The most significant amendments will: i. permit, for natural mineral water, the indication 'suitable for the preparation of infant food' and on the grounds of consistency, extend these provisions to spring water and bottled drinking water, ii. make it an offence to sell bottled water labelled as suitable for infant feeding without complying with the specified labelling and compositional requirements and iii. introduce other amendments to national provisions which will: (a) make the limits for pH more appropriate for bottled water (b) re-introduce a provision to limit bromate in natural mineral water that is not subjected to the authorised treatment	02/11/2004	Yes
Pharmacist control and Pharmacist supervision of the dispensing, sale and supply of prescribed medicines	Health Department	To support the development of NHS community pharmacy services by allowing pharmacies and pharmacists greater freedom and flexibility in conducting pharmacy business, including better use of the pharmacy workforce.	31/12/2004	No

Repeal of Section 26 of the Revenue Act 1889 - Methylated Spirits	Finance & Central Services Department	Repeals an existing prohibition on the sale of methylated spirits on a Sunday.	19/01/2005	No
Transposition of Article 3 of the Public Participation Directive (2003/35/EC) in Scotland	Development Department	to transpose into national legislation, by regulation, the amendment of Directive 85/337/EEC (on the assessment of the effects of certain public and private projects on the environment, otherwise known as “the EIA Directive” made by Article 3 of Directive 2003/35/EC (known as the Directive on public participation or “the Public Participation Directive”). Article 6 of the Directive requires Member States to comply with the Directive by 25 June 2005. One of the Directive’s objectives is to improve the public participation within Council Directive 85/337/EEC on the effects of certain public and private projects on the environment.  These Regulations provide for the enforcement of European Parliament and Council Regulation (EC) 1831/2003, which rationalises existing measures for and introduces new controls on the authorisation and use of additives in animal nutrition. This Regulation repeals and replaces a number of existing EC measures in this area.	26/01/2005	Yes
Implementation of Regulation EC/1831/2003 on additives for use in animal nutrition	Food Standards Agency		19/01/2005	Yes
Proposal to Increase Traceability of Sheep and Goats in Scotland	Environment & Rural Affairs Department	To provide an improved system of identification to aid traceability of sheep and goat movements and to link rules to the payments of EU subsidy.	18/03/2005	Yes
The Official feed and Food Controls (Scotland) Regulations 2005	Food Standards Agency	Sets out requirements for the bodies in Member States that are responsible for monitoring and enforcing compliance of businesses with feed and food law and animal health and welfare rules. These bodies are the ‘competent authorities’ and the checks that they undertake to monitor and enforce legislation are ‘official controls’. The EU Regulation also sets out how the European Commission’s inspection services will ensure that these competent authorities are performing effectively.	01/03/2005	Yes

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2005	Development Department	To give effect in Scotland to land use planning requirements arising from Directive 2003/15/EC amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (the Seveso II Directive).	05/05/2005	Yes
Country of Origin Labelling of Beef in the Food Service Sector	Environment & Rural Affairs Department	The objective is to provide consumers in Scotland with information on the country of origin of beef served to them in the food service sector. The food service sector is made up of hotels and restaurants, bars, canteens and other catering facilities.	31/05/2005	No
Implementation of EC Regulation 812/2004 Laying down measures concerning incidental catches of cetaceans in fisheries	Environment & Rural Affairs Department	Will implement and enforce the requirements of EC Regulation 812/2004 which introduced measures to protect small whales, dolphins and porpoises from accidental injury or death in fishing.	03/06/2005	Yes
Foot and Mouth Disease (Scotland) Order 2005	Environment & Rural Affairs Department	Implements EC Directive 2003/85/EC on Community measures to be taken should foot and mouth disease (FMD) be suspected or confirmed in EU territory. Incorporates the following: 1. Recent scientific developments in the field of disease control, 2. Experience gained in eradicating FMD during the 2001 outbreak & 3. Technical advancements in laboratory diagnosis of FMD viruses.	10/06/2005	Yes
The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005	Food Standards Agency	To extend approval and registration arrangements currently restricted to premises dealing with feed additives to all feed businesses, including farms, involved in producing, holding or marketing feeds.	03/05/2005	Yes
Directive of the European Parliament and of the Council on certain aspects of Mediation in Civil and Commercial Matters	Justice Department	to ensure better access to justice by facilitating mediation as a form of alternative dispute resolution: to ensure "a sound relationship between mediation and judicial proceedings", by establishing minimum common rules in the Community on a number of key aspects of civil procedure, and for Member States to actively promote the use of mediation, without nevertheless making mediation compulsory.	16/06/2005	Yes

The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006	Environment & Rural Affairs Department	to define the “reasonable cost” or contribution that Scottish Water should make towards the costs of new connections for domestic dwellings, as provided in the Sewerage (Scotland) Act 1968 (the 1968 Act) and the Water (Scotland) Act 1980 (the 1980 Act), as amended by the Water Environment and Water Services (Scotland) Act 2003 (the 2003 Act). By defining “reasonable cost”, the regulations would set a more transparent and level basis for funding future connections.	29/06/2005	No
The Contaminants in Food (Scotland Regulations 2006 - Maximum limits for ochratoxin A in certain foodstuffs	Food Standards Agency	Revises maximum limits for: Commission Regulation (EC) No. 466/2001 as regards ochratoxin A in certain foodstuffs, Commission Directive 2002/26/EC as regards sampling methods and methods of analysis for the official control of the levels of ochratoxin A in certain foodstuffs.	15/07/2005	Yes
The Contaminants in Food (Scotland Regulations 2006 - Revised maximum limits for heavy metals	Food Standards Agency	Revises maximum limits for: Commission Regulation (EC) 466/2001 as regards heavy metals in foods, Commission Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foods, Commission Regulation 466/2001 as regards polycyclic aromatic hydrocarbons in foodstuffs and Commission Directive 2005/10/EC of 4 February 2005 laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs	15/07/2005	Yes
Public Sector Duty on Disability Equality	Development Department	The new duty will introduce a framework that is both consistent and legally enforceable. It will allow public bodies, and Government, acting as a stakeholder on behalf of the public, to assess whether the public sector is improving its treatment of disabled people and taking appropriate action where it is needed.	22/07/2005	No
Increase in charges for new & renewal licences in respect of the importation of plant material for scientific and commercial purposes	Environment & Rural Affairs Department	to increase the charges made to industry in respect of new and renewal licences issued to researchers and importers who wish to import for trials, scientific or varietal selection work, plants, plant pests, soil and growing medium whose entry into Scotland would otherwise be prohibited.	28/07/2005	No

Charities and Trustee Investment (Scotland) Act 2005	Development Department	These regulations will set out the circumstances when charities must identify themselves as a charity on documents issued or signed on behalf of the charity.	27/07/2005	No
The Feeding Stuffs and the Feeding Stuffs (Sampling & Analysis) (Amendment) (Scotland) Regulations 2005	Food Standards Agency	Amend the existing entries for the analysis of dioxins and dioxin-like polychlorinated biphenyls (PCBs) by introducing provisions which take into account expanded measurement uncertainty and correction for recovery. Make a number of small technical amendments to entries in Schedule 2 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999. Amend the existing maximum permitted levels (MPLs) for mercury, a naturally occurring contaminant, by introducing a new limit for the presence of this substance in calcium carbonate, a widely used mineral feeding stuff; amend the existing MPLs for fluorine, by altering the entries for fluorine in mineral mixtures for ruminants and complementary feeding stuffs to link the MPLs to the phosphorus content of such feeds; and amend the entry for the MPL for lead in green fodder by adding an annotation to make clear what green fodder encompasses.	26/07/2005	Yes
Pre and Post-Movement Testing of Cattle for Bovine Tuberculosis (bTB) In Scotland	Environment & Rural Affairs Department	The objective of testing measures is to prevent cattle with bTB moving to Scotland, and to detect sooner bTB in cattle from high incidence areas that were previously undetected.	28/07/2005	No
Guidance on the EC General Food Law Regulation 178/2002	Food Standards Agency	Provides advice on compliance with legal requirements and on certain aspects of best practice. These obligations in particular cover food and feed safety requirements, traceability provisions; and the need to notify, withdraw and/or recall products not in conformity with the safety requirements that applied in the UK from 1 January 2005, under regulation 178/2002	02/08/2005	Yes
Guidance on Allergen Control and Consumer Information	Food Standards Agency	To provide best practice guidance on handling allergens and to recommend appropriate labelling for cross-contamination with allergens. It should be noted that this guidance has no statutory force.	12/08/2005	Yes

<p>The Fish Labelling (Amendment) (Scotland) Regulations 2005</p>	<p>Food Standards Agency</p>	<p>To update the UK national list of commercial designations for fish species, laid down in the schedule to the Fish Labelling (Scotland) Regulations 2003. This will allow certain newly commercialised fish species to be marketed in the UK and also allow a number of changes to existing commercial designations in light of new scientific information.</p>	<p>25/08/2005</p>	<p>Yes</p>
<p>Reporting of Prices of Milk Products (Scotland) Regulations 2005</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>To enable Government, (Defra), to collect representative, accurate and complete weekly price information from dairy processors for the weekly returns to the European Commission required under Article 6 of Commission Regulation (EC) No 562/2005.</p>	<p>29/08/2005</p>	<p>Yes</p>
<p>Charities and Trustee Investment (Scotland) Act 2005 - draft benevolent fundraising regulations</p>	<p>Development Department</p>	<p>The proposals in the draft charities and benevolent fundraising regulations are made using these powers in section 83 of the Act and are intended to help maintain public confidence in the sector and increase transparency without placing undue burdens on charities and other benevolent bodies. The draft regulations set out the information which must be included in agreements between professional fundraisers/commercial participators and benevolent bodies they are fundraising for, how the funds raised are to be transmitted to the benevolent body and the right of benevolent bodies to see documents relating to an agreement. The draft regulations also set out a requirement for all benevolent fundraisers to make a statement to potential donors setting out whether they are being paid to collect</p>	<p>06/08/2005</p>	<p>No</p>
<p>The Marking and Identification of Passive Fishing Gear and Beam Trawls (Scotland) Regulations 2005</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>These regulations will implement the measures contained in Commission Regulation (EC) 356/2005 which lays down detailed rules for the marking and identification of passive fishing gear and beam trawls.</p>	<p>09/08/2005</p>	<p>Yes</p>
<p>Charities and Trustee Investment (Scotland) Act 2005 - draft Scottish charity appeals panel</p>	<p>Development Department</p>	<p>The Charities and Trustee Investment (Scotland) Act 2005 establishes a Scottish Charity Appeals Panel to hear appeals about certain decisions made by the Office of the Scottish Charity Regulator (OSCR). This partial RIA covers the options considered for the panel and the rules under which they will operate</p>	<p>28/09/2005</p>	<p>No</p>

<p>Waste Management Licensing Exemptions: A codification</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>to ensure that the remaining requirements of Article 3 of the Hazardous Waste Directive are met in respect of exemptions available in Scotland. In these circumstances there is little point in changing one, or some, of the relevant exemptions, while leaving others to which the Hazardous Waste Directive applies untouched. The Executive intends to notify its exemptions to the European Commission.</p>	<p>28/09/2005</p>	<p>Yes</p>
<p>Aquaculture &amp; Fisheries (Scotland) Bill</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>proposals to build investor confidence in the aquaculture industry and to protect sustainability and biodiversity of wild fish stocks</p>	<p>03/10/2001</p>	<p>No</p>
<p>The Environmental Levy on Plastic Bags (Scotland) Bill 2005</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>Private Members Bill: The Bill seeks to introduce a levy of 10p on specified bags made wholly or partially of plastic.</p>	<p>10/10/2005</p>	<p>No</p>
<p>Radioactively Contaminated Land (Scotland) Regulations</p>	<p>Environment &amp; Rural Affairs Department</p>	<p>Draft Contaminated Land (Scotland) Regulations 2005 have been laid in the Scottish Parliament for approval. They make changes to EPA90 and to the Contaminated Land (Scotland) Regulations 2000. Those changes have the effect of replacing references to “controlled waters” with references to “the Water Environment”. The Part IIA regime is to be extended to include radioactivity. Where contamination is causing lasting exposure to radiation, above defined exposure limits, such land will be determined as being a special site and to be radioactively contaminated for the purposes of the Part IIA regime. It may then be subject to appropriate remediation. The modified regime also transposes fully Articles 48 and 53 of Title IX of Council Directive 96/29/EURATOM laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation, referred to in the RIA as the Basic Safety Standards.</p>	<p>17/10/2005</p>	<p>Yes</p>

The Student Fees (Specification) (Scotland) Order 2006	Enterprise, Transport & Lifelong Learning Department	The Scottish Executive proposes to set annual tuition fees for any non medical full time degree and postgraduate initial teacher training courses at £1,700 and for full time medical degree courses at £2,700. If accepted these changes will take effect from academic year 2006/07. The draft Order also makes provision for subsequent annual increases which take account of inflation, without recourse to further legislation.	19/10/2005	No
Maximum Care Commission Fees from 1 April 2006	Health Department	The policy objective to achieve a position of funding the Care Commission from fees charged for regulation i.e. full cost recovery, was established at the time the Regulation of Care (Scotland) Act was passed in 2001. The central purpose of regulating care is the protection of people using care services, particularly vulnerable adults and children. It also provides reassurance to the public and supports the improvement in the quality of services. It is essential that the Care Commission is adequately funded to enable it to ensure that care services deliver quality care to people regardless of where they live or the type of care they are receiving.	19/10/2005	No
The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2005	Environment & Rural Affairs Department	These Regulations implement EC Directives 2005/37, 2005/46 and 2005/48, and set new maximum residue levels (MRLs) for the active substances carfentrazole-ethyl; fenamidone; flufenacet; fosthiazate; iodosulfuron-methyl sodium; isoxaflutole; mecoprop; mesotrione molinate; picoxystrobin; silthiofam and trifloxystrobin. Also, revisions are made to existing MRLs for the active substances amitraz; iprodione; maleic hydrazide, propiconazole and propyzamide. The Regulations also consolidate existing legislation, a number of amendments having been issued since they were last made in their entirety in 2000.	26/10/2005	Yes
Water Environment and Water Services (Scotland) Act 2003: Designating Responsible Authorities under section 2 of the Act	Environment & Rural Affairs Department	Designation places a legal responsibility on the responsible authorities to ensure that they take into account the objectives and principles of the Water Framework Directive in the course of carrying out their normal statutory duties.	09/11/2005	Yes

<p>Protection of Vulnerable Adults (Scotland) Bill</p>	<p>Health Department</p>	<p>To put in place modern and strengthened measures to afford greater protection for Scotland's vulnerable adult population. It will improve and enhance protective measures for vulnerable adults, whether in hospital, residential care services, or at home. It will also, in turn, improve inter-agency co-operation and enhance preventative action.</p>	<p>15/11/2005</p>	<p>No</p>
<p>The Ceramic Articles in Contact with Food (Scotland) Regulations 2006</p>	<p>Food Standards Agency</p>	<p>To implement the provisions of directive 2005/31/EC - requiring a declaration of compliance for the migration levels of certain substances in ceramic articles intended to come into contact with foodstuffs, and sets performance criteria for the analytical method.</p>	<p>15/11/2005</p>	<p>Yes</p>