

Examples of the Regulatory Review Group's achieved outputs

Regulation of Care (Scotland) Act 2001

This piece of regulation was selected as an existing piece of Scottish legislation being enforced by a Scottish Regulator. It illustrated perceived problems of inflexibility in the initial legislation, a relatively weak RIA, duplicative inspection regimes and the lack of formal review procedure.

The RRG in its role as a facilitator was able to achieve achievements in co-operation between private sector care homes, Local Authorities and the Care Commission that helped reduce burdens on all three. The RRG was also able to get a commitment from the Scottish Government's Health Directorate to undertake to review the RIA in their consultation on maximum Care Commission fee levels. As a consequence of the reduction in the minimum frequency of inspections the Care Commission was able to pass cost savings to its clients.

Confidential Invoice Discounting of Government Procurement Contracts

The Chairman at 15 March 2006 meeting of the RRG gave 2 examples where companies seeking to use a new form of invoice discounting called Confidential Invoice Discounting (CID) to raise short term capital have been told by the banks that they did not allow discounting on government contracts.

Once this problem was brought to the attention of the Scottish Government the RRG worked with the 4 Scottish banks, the Scottish Government's Procurement Directorate and the Factor Discount Association to find a solution which could potentially save Scottish businesses hundreds of thousands of pounds.

By changing the Scottish Government's procurement rules it enabled SMEs to better compete for public sector contracts in Scotland. The change in our contract rules allowed suppliers to use an intermediary to raise finance without prior permission which hitherto they had been unable to do.

Factoring and invoice discounting can be an important source of finance to business and SMEs in particular. The Asst Based Finance Association (ABFA) estimated that in 2006 there were 1600 businesses in Scotland using factoring or invoice discounting and that the total value of invoices assigned by Scottish businesses amounted to some £2.6 billion.

Moreover the Scottish Government has also published guidance for other public bodies in Scotland and expects them to follow suit.

Thus the RRG was instrumental in getting the Scottish Government to lead the public sector in opening up more choice and more opportunities for small business. This simple rule change, by removing unnecessary restrictions, has made a real

difference to small businesses in Scotland by allowing those who use factoring services to bid for public sector contracts. Not only will this reduce costs and improve competition but ultimately it will deliver better value to taxpayers.

Engagement with Regulators and SEPA in particular

Following a presentation from SEPA's Better Regulation manager on 6 December 2005 the Group inputted into SEPA's Revised Enforcement Policy Consultation document which set out the guiding principles behind the Agency's enforcement regime.

The Group has also taken a keen interest in the transposition, implementation and enforcement of EU legislation. The Group recently made recommendations about the Scottish Environment Protection Agency work on various aspects of environmental legislation which have received a very positive and helpful response from ERAD.

The recommendations envisage

- a business input at an early stage into relevant environmental proposals, it is important for organisations such as the CBI, FSB etc. to make their views known in Brussels when the European Commission are preparing draft proposals;
- close working between all relevant stakeholders on the implementation of European legislation;
- the principle that new or revised legislation should be, where permitted, less prescriptive and more facilitative in what it obliges SEPA to do as a regulator. The aim was always that legislation should give SEPA the powers it needs to enforce the law but to allow SEPA flexibility in how it uses those powers. This work includes looking at new and better ways of enforcement including administrative penalties which are also the subject of a review being undertaken by Professor McCrory;
- the Regulatory Sub-Group would co-operate with ERAD officials and SEPA in a post-implementation review of the regulatory framework for waste. This would be used as a case study for other post-implementation reviews

More generally the RRG has discussed varying issues with some of the enforcement agencies that work closely with business. These discussions are still at an early stage but two clear areas are emerging where the RRG would like to make recommendations now

- That enforcement agencies be involved in the creation of legislation which they will have to enact. Our evidence to date suggest that this does not happen now which we feel is a mistake in that enforcers often can make legislation better by using their experience to put in things that work and importantly make sure that those that do not work are not repeated
- That enforcement agencies as part of RRG 'annual review' process tell RRG how they can do their job better in terms of both satisfying their own

objectives and ensuring business understand and comply with what is asked of them. To do this effectively enforcement agencies should feel unhindered in their replies and suggest anything they wish including changes in their financial or business models if they feel those hinder it fulfilling their task.

Sub-Sea Submersibles

Difficulties had been raised by companies owning sub sea vehicles operating in the North Sea which go beyond 3000 feet who now (post 11 Sept) need to re-apply for a licence whenever vehicles need re-servicing. This was causing delays for business and making them uncompetitive. Thanks to the Group's intervention a new open general export licence scheme came into force in September 2005. This helped maintain North Sea companies' competitive position against oil exploration elsewhere in the world by removing unnecessary costs. The Group then worked with DTI to help raise awareness of the license with companies in Scotland.

Other areas of RRG interest

- Bankruptcy & Diligence Bill
 - Climate Change Bill
 - Planning Bill
 - Arbitration Bill
 - Waste Regulations
 - Dispute Resolution
 - Environmental Liability Directive
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- Davidson Review of Gold-Plating of EU Legislation
 - Local Better Regulation Office
 - Macrory Penalties Review