PREM 19/1466

PART 5.

MT.

CONFIDENTIAL FILING.

Policy on Small Firms.

Enterprise Proposals.

ECONOMIC POLICY.

PART 1 : JUNE 1979

PART 5 : SEPTEMBER 1984

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~1.9.84.~~		~~18.4.85~~					
~~6.9.84~~		~~24/4/85~~					
~~10.84~~		~~26.4.85~~					
~~10.84~~		26/4/85					
~~10.84~~		~~1.5.85~~					
~~9.10.84.~~		ENDS					
~~31.10.84~~							
~~3/11/84~~							
~~9.11.84~~							
~~23.11.84~~							
~~5.12.84~~							
~~12.12.84~~							
~~3.1.85.~~							
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~~5/2/85~~							
~~1.3.85~~							
~~20.3.85~~							
~~1.3.85~~							
~~25.3.85~~							
~~28/3/85.~~							

PREM 19/1466

PART 5 ends:-

AT & RM 30/4/85.

PART 6 begins:-

Ch. Esch & RM 1/5/85

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
E(A)(85) 23	18/04/1985
MISC 108(85) 23	21/03/1985
MISC 108(85) 20	20/03/1985
MISC 108(85) 14	05/02/1985
MISC 108(85) 13	05/02/1985
MISC 108(85) 12	05/02/1985
MISC 108(85) 11	05/02/1985
MISC 108(85) 10	04/02/1985
MISC 108(85) 9	04/02/1985
MISC 108(85) 8	25/01/1985
MISC 108(85) 7	23/01/1985
MISC 108(85) 5	23/01/1985
MISC 108(85) 6	22/01/1985
MISC 108(85) 3	22/01/1985
MISC 108(85) 2	14/01/1985
OD(E)(84) 15	03/10/1984

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 22/1/2014

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Department of Trade and Industry - Burdens on Business: Report of a Scrutiny of Administrative and Legislative Requirements. Published by HMSO, March 1985.
ISBN 0 11 513820 X

Signed J. Gray Date 22/1/2014

PREM Records Team

10 DOWNING STREET

From the Private Secretary

Prime Minister (1)

Members of MISC 108 have agreed on policy proposals, in particular support for Local Enterprise Agencies, but have not agreed where the money will come from. The Chancellor says the announcement can go ahead, but savings can be found later. Mr Tebbit says his budget can't provide anything. So the chances of securing savings once the announcement has been made are slim.

This is a fudge, but one which the Chancellor for once is prepared to connive at. If you, as recommended, you endorse this deal, you may want to warn against groups like Lord Young's [illegible] going ahead in future with proposals before the financing has been settled.

Agree, but with cautionary remark?

AT 30/4

But surely the LEAs are largely going to take over the work of DTI on small business advice thereby saving money?

MR TURNBULL 30 April 1985

MISC 108

David Young would like to announce his measures to support Local Enterprise Agencies (LEAs) as part of 'Local Enterprise Week' which starts on 15 May. Apparently no E(A) meeting can take MISC 108's report before then.

Many LEAs are already effective supporters of small firms: the intention is to build on this and gradually transfer to them some of the simpler functions undertaken by the DTI Small Firms Service. DTI would then concentrate on coordinating interdepartmental inputs to the LEAs and in providing more complex advice. This should result in less bureaucracy and a more acceptable means of advice to budding entrepreneurs. It is also good politics: LEAs have been successful and we should not allow Labour all the credit.

The proposal will cost approximately £20 million over the next five years. Nigel Lawson is prepared for the announcement about the LEAs to be made in advance of any agreement on how this money will be funded. (David Young's proposal is a change to the small firms corporation tax tapering measures which would more than fund the money required, but Treasury claim that this is a tax measure and outwith the Group's remit. However, Treasury officials had earlier agreed that such tax measures would be legitimate, which explains why the Chancellor is unusually prepared to allow the funding to be discussed after the decision has been announced).

As the Chancellor is party to this agreement with David Young and no Minister has dissented, **we recommend that either the Prime Minister accepts this decision or insists on an earlier meeting of E(A) so that all of the decisions can be taken in advance of any announcement for Local Enterprise Week.**

Peter Warry

PETER WARRY

CC NO

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
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SWITCHBOARD 01-215 7877

JF7961

PS/Secretary of State for Trade and Industry

26 April 1985

Andrew Turnbull Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear Andrew,

MISC 108

As requested I am copying to you the letter my Secretary of State has sent to the Chief Secretary.

Yours ever

John Mogg

J F MOGG
Private Secretary

Encl

BF with PO response

DEPARTMENT OF TRADE AND INDUSTRY
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JU348
Secretary of State for Trade and Industry

26 April 1985

CONFIDENTIAL

The Rt Hon Peter Rees QC MP
Chief Secretary
HM Treasury
Treasury Chambers
Parliament Street
London SW1P 3AG

Dear Peter,

MISC 108

Thank you for your letter of 18 April.

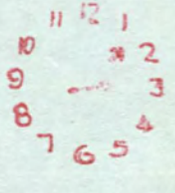
2 While I endorse the central idea in the report of help for small firms being concentrated at the local level I must, at present, keep an open mind on the priority this might have relative to other claims on my Department's expenditure. You will know that there has been a shift in other DTI programmes towards small firms, notably the new policy on innovation support which I announced on 25 March, and also the BOTB's support for exporters. So that you too can keep an open mind on the priority additional small firms schemes might have relative to other public expenditure programmes, I propose to submit an additional bid for the MISC 108 proposal on the LEAs in my forthcoming PES return.

3 I am sending a copy of this letter to David Young, members of MISC 108 and to Sir Robert Armstrong.

Yours Norman

NORMAN TEBBIT

CONFIDENTIAL



B/F with response CC FR

C

PRIME MINISTER

MINISTERIAL GROUP ON SMALL FIRMS : REPORT TO E(A)

1 As you know, the report of the group I chaired on small firms (MISC 108) cannot now be taken at E(A) tomorrow and I understand that no further meeting can take place before the week of 13 May. This is particularly unfortunate since "Local Enterprise Week", which itself starts on 15 May, provides an ideal opportunity for announcing a package of measures for small firms.

2 I should like to keep to the timetable of an announcement during Enterprise Week if possible, but the preparation of publicity material clearly could not be held up until E(A) had met. I should therefore like to propose clearing the bulk of the recommendations with colleagues by correspondence over the next week or so. E(A) can then concentrate in the week of 13 May on the resolution of any remaining differences between us.

3 The main issues colleagues will wish to consider are highlighted in my covering note and annex, E(A)(85)23. Briefly, these are:-

a **Local Enterprise Agencies** - the group's recommendation is that reducing Government funding over 5 years should be available to eligible agencies to enable them to lever private sector support and build into a strong network providing services to small firms.

b **Finance for small firms** - I have discussed the group's recommendations on finance with the Chancellor and accept that it is inappropriate for MISC 108 itself to be involved

in the review of the Business Expansion scheme (BES). If Norman Tebbit agrees, I should like my Unit to be involved in discussion of the future of the Loan Guarantee Scheme (LGS). I will personally discuss other aspects of financial measures further with the Chancellor.

c **CoSIRA and the Small Firms Service** - DoE and MAFF dissent strongly from the recommendation that DoE and DTI should urgently examine the case for transferring the Development Commission, with CoSIRA, to DTI, reporting back to E(A). I believe it is important that Government services to small firms should be better coordinated and that, in so doing, savings can be made. This will certainly have to be discussed at E(A) and I do not expect this to be dealt with in the clearance by correspondence which I have proposed.

4 The additional cost of the recommendations is modest. So too is the amount currently available for direct support services to small firms and it is not easy to find offsetting savings - as I have agreed we must - from these resources particularly in 1986/87 and 1987/88, Peter Rees is pursuing this with colleagues but I have agreed with the Chancellor that exceptionally, in this case, the announcement of a package can go ahead while discussions about finding the resources continue.

5 I should be grateful if colleagues will confirm their agreement to the MISC 108 recommendations and the package I propose should be announced in Local Enterprise Week, indicating any areas of disagreement, by Friday 3 May.

6 A copy of this minute goes to members of E(A), to the Secretary of State for Education and Science, and to Sir Robert Armstrong.

D.Y.

24 April 1985

BF

CONFIDENTIAL

For E(A) 1 st week this weeks agenda

MT 2224

cc- Mr Gregson
Mr Wiggins
Mr Dart / Roberts

Treasury Chambers, Parliament Street, SW1P 3AG

→ Mr Roberts

Rt Hon Norman Tebbit MP
Secretary of State for Trade and Industry
Department of Trade and Industry
1 Victoria Street
London SW1E 6RB

18 April 1985

Dear Secretary of State

MISC 108

We are to discuss in E(A) on Thursday 25 April the report of MISC 108. I understand that the net additional cost of the report's recommendations is about £6m in 1986-87 and 1987-88 (of which £5m represents the support to local enterprise agencies) with the overall net additional cost falling to something under £4m in 1988-89. All the additional costs fall to your programme.

Normally, as I am sure you will agree, proposals for additional spending ought to be brought together and considered in our annual survey of spending, for which we have recently agreed guidelines, so we can determine which programmes can be afforded within the agreed spending totals.

Nigel Lawson and David Young have had a preliminary talk and are agreed that if E(A) on 25 April endorses MISC 108's proposals, offsetting public expenditure savings will have to be found in the years 1986-87 to 1988-89.

The purpose of this letter is to ask you and members of MISC 108 (who endorsed the expenditure proposals) to identify within their existing provision items of lower priority (not necessarily related to small firms) where the necessary offsetting savings can be found. I assume that your view will depend on the priority you attach to expenditure supporting local enterprise agencies compared with other claims on your resources. I would be grateful to know your views before E(A) meets next Thursday about the relative priority you attach to the net additional costs of implementing the MISC 108 proposals compared to the other claims on your resources.

CONFIDENTIAL

This is not a procedure which I, or I imagine you, would normally adopt at this stage of the annual public expenditure cycle. But in view of the importance the Group attach to early announcement of the additional expenditure, I think that exceptionally we must be prepared to do so in this case.

I am sending copies of this letter to David Young, Members of MISC 108 and to Sir Robert Armstrong.

Yours sincerely

for PETER REES

[Approved by the Chief Secretary]

Mark Addison

10 DOWNING STREET

28th March 1985

Dear David,

The officers of the New and Smaller Business Backbench Committee came to see the Prime Minister at Number Ten Downing Street on 26th March. I am writing briefly to let you know the main points which they raised in discussion with her. Those present at the meeting were: John Browne; Peter Thurnham; John Townend, and Henry Bellingham.

John Browne introduced a general discussion about the needs of small businesses, and his main message was that small businesses, rather like delicate plants, need some special discriminatory help and support in the early stages of their growth until them become robust. He was particularly anxious to boost the Business Enterprise Scheme, because of the opening it provides for equity capital. He believed that the BES should be extended actively, even if there were some risk of abuse, rather than extended gradually, after all possibilities of abuse had been eliminated. He thought that there should be a 3-year "lock-up" period for capital put into the Scheme, rather than the existing 5-year rule.

Henry Bellingham was specially in favour of drawing upon the expert knowledge and experience of local retired businessmen. He thought that the Local Enterprise Agencies (numbering some 242) were doing a very good job and should be further developed, perhaps by drawing into them, more actively, the local retired businessmen he had referred to earlier. He also thought that the Small Firms Advisory Service should be dispersed from its present 10 regional bases and incorporated into the LEAs.

.../...

Peter Thurnham was particularly anxious that bureaucratic interference should be prevented so far as small businesses are concerned. In his own constituency of Bolton a number of small firms were running into frustrating blockages originating from local government or Town Hall influence. He cited the case in Bolton where the Council was trying to corral local businessmen into developing a Council-owned site, by placing planning restrictions on other useful sites round the town. Once the business had been driven onto the Council-owned site, the Labour Council proposed to impose development conditions - including costly amenities - which would put costs up steeply for the businesses. He was also anxious that private insurance companies should be allowed to get involved in arranging the necessary insurance for small business start-ups, so that the businessmen could shop around.

John Townend was convinced that Wages Councils destroyed jobs, but was also convinced that some big firms wanted Wages Councils to remain so that low-cost small businesses - paying wages below prescribed levels - could not threaten the big businesses with competition.

Yours ever
Michael

MICHAEL ALISON
Parliamentary Private Secretary

David Trippier Esq MP

Prime Minister (2)

DTI

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(Switchboard) 215 7877

From the Parliamentary Under Secretary of State for Industry

Mark Addison Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1

26 March 1985

Dear Mark

As you will know, Mr Trippier and Lord Young are holding a joint press conference on the publication of the report "Burdens on ... Business". I enclose a copy of the report which is, of course, UNDER EMBARGO until publication, ie 10am, Friday 29 March.

I am copying this letter and its enclosure to the Private Secretaries to the Home Secretary, the Chancellor of the Exchequer, the Secretaries of State for the Environment, Social Services, and Employment, Lord Gowrie, the Minister without Portfolio, the Financial Secretary, Lord Elton, Mr Bottomley, Mr Macfarlane, Mr Whitney and Mr Renton, and also to Sir Robin Ibbs and Mr Gregson (Cabinet Office).

Yours ever

Paul

→ cc Miss Caines

PAUL MADDEN
Private Secretary

Enc.

DT2AOP

999-11

E.R.

Prime Minister. 1.
A useful note from the Policy Unit for tomorrow's meeting with Backbenchers at 1900. The likely conclusions of Lord Young's group are of course confidential, as is the date of publication of the Burdens or Business report (Friday; copy attached). MTA 25/3

PRIME MINISTER 25 March 1985

SMALL BUSINESSES

Small firms are important: depending upon definitions they provide employment for half the private sector workforce and are responsible for at least half of all the new jobs created. (In fact those firms employing less than 20 people are responsible for 31% of new jobs created, whereas the fertility of our large firms - those employing more than 1,000 - is only one fifth of that level pro rata to size).

The principle recommendations likely to come out of Lord Young's group are:

1. A greater role for local enterprise agencies in assisting new and small businesses (at the expense of the Small Firms Advisory Service).

2. Promotion of an enterprise culture, particularly at schools and universities.

3. Government and large firms to be more responsive to small firms, particularly for procurement.

4. Repackaging of financial support (yet to be determined).

5. Deregulation - making PAYE simpler, raising VAT threshold (if only EC would permit it), etc.

Peter Warry

PETER WARRY

10 DOWNING STREET

THE PRIME MINISTER

1 March 1985

Dear Sir Terence.

Thank you for your letter of 21 January in which you suggested that we might defer the introduction of new regulations under the Consumer Credit Act, which are due to come into effect in May, pending decisions on the outcome of the Scrutiny.

I have looked into this carefully, but I do not believe that it would be right to defer the introduction of these regulations, which have been approved by Parliament, at this very late stage. Nevertheless, I have noted your concern about the needs to reduce the burdens on industry in this area, and you can be assured that we will be giving full consideration to all the recommendations in the Scrutiny, including those relating to the Consumer Credit Act.

I understand, incidentally, that in writing your letter you had in mind problems raised by the mail order traders about one of the sets of regulations. You may be aware that Alex Fletcher has recently met the traders to discuss their concerns and the Department of Trade and Industry are now urgently considering what can be done to alleviate their particular difficulties.

Yours sincerely

Margaret Thatcher

Sir Terence Beckett, C.B.E.

Tyre
GR for PM mtg.
AT

CC(N)

DEPARTMENT OF TRADE AND INDUSTRY
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JU42
Secretary of State for Trade and Industry

27 February 1985

Andrew Turnbull Esq
10 Downing Street
London SW1A OAA

Dear Andrew,

ADMINISTRATIVE AND LEGISLATIVE BURDENS

Your letter of 22 January enclosed a copy of a letter which the Prime Minister has received from Sir Terence Beckett. He suggests that, in the light of the ALB scrutiny, implementation of new regulations under the Consumer Credit Act, which are due to come into effect in May, should be deferred pending decisions on the outcome of the scrutiny.

Sir Terence Beckett is referring to the large group of regulations which come into effect on 19 May. There are 27 of these, but many are only very minor technical measures. This package of regulations will complete the full implementation of the Consumer Credit Act.

The ALB report makes a number of recommendations in relation to consumer credit, including a review of the licensing system under the Act and amendment and simplification, in due course, of some of the regulations. It does not, however, recommend deferment of the new regulations.

We do not recommend that the Prime Minister should agree to Sir Terence Beckett's request. There are several reasons for this. First, the Government has taken no decision as yet on the ALB recommendations, and it would be premature to give a commitment to action in one particular area. Second, while DTI Ministers have always acknowledged that it will be necessary in due course to review the working of the Act they have said publicly that it makes no sense to do this until there has been some experience of the Act operating as a whole. The decision to proceed with the last group of regulations was taken by Ministers within the last 18 months on the basis of a full consideration of the issues and

after consultation with industry. Third, it would be very late in the day to defer implementation of the regulations and it is questionable whether to do so would be in the interest of industry which has been gearing up to comply with the regulations for some time. Most firms will now have made all the necessary preparations and postponement of the regulations could cause confusion and result in considerable wasted expenditure. Indeed, the ALB report noted that "it is arguable that there is now a case for a period of stability in the system in the interests of credit businesses themselves."

We understand, incidentally, that the CBI, despite the broad scope of their letter, were inspired to write by the mail order traders who are concerned about one set of the regulations and who have decided to enlist the support of the CBI at a late stage in their campaign. The scrutiny team have confirmed that at no stage in their discussions with the CBI was deferment of the whole package of regulations suggested. Mr Fletcher has recently held a meeting with a deputation from the mail order trade and the Department is now considering whether anything can be done to alleviate their rather specialised problems.

While we do not recommend that the Prime Minister should agree to Sir Terence Beckett's request she will of course want to assure him that the recommendations of the ALB review will be given full consideration. A suggested reply on these lines is attached. The draft reply also points out that the mail-order problem is being dealt with separately.

Yours sincerely,

Maureen Dodsworth.

MAUREEN DODSWORTH
Private Secretary

PM.1

DRAFT REPLY FOR THE PRIME MINISTER TO SEND TO

Sir Terence Beckett CBE
Director General
Confederation of British Industry
Centre Point
103 New Oxford Street
London WC1A 1DU

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

Thank you for your letter of 21 January in which you suggested that we might defer the introduction of new regulations under the Consumer Credit Act, which are due to come into effect in May, pending decisions on the outcome of the Scrutiny.

I have looked into this carefully but
I do not believe that it would be right to defer the introduction of these regulations, which have been approved by Parliament, at this very late stage. Nevertheless, I have noted your concern about the needs to reduce the burdens on industry in this area and you can be assured that we will be giving full consideration to all the recommendations in the Scrutiny, including those relating to the Consumer Credit Act.

I understand, incidentally, that in writing your letter you had in mind problems raised by the mail order traders about one of the sets of regulations. You may be aware that Alex Fletcher has recently met the traders to discuss their concerns and the Department of Trade and Industry are now urgently considering what can be done to alleviate their particular difficulties.

8

Econ Pol PTS

Small hmig

10 DOWNING STREET

From the Private Secretary

22 January, 1985

The Prime Minister has asked me to thank you for your letter of 21 January. The point you raise on the Consumer Credit Act is being looked into and a further reply will be sent to you in due course.

ANDREW TURNBULL

Sir Terence Beckett, C.B.E.

FCE SH

10 DOWNING STREET

From the Private Secretary

22 January, 1985

I enclose a copy of a letter which the Prime Minister has received from Sir Terence Beckett, Director-General of the Confederation of British Industry.

BF 11

I should be grateful for advice on how the Prime Minister should reply to Sir Terence on his suggestion about the Consumer Credit Act.

I am copying this to Ian Beesley (Efficiency Unit, Cabinet Office).

ANDREW TURNBULL

Miss Maureen Dodsworth,
Department of Trade and Industry

SH

Financial Times 21.1.85

Cut down on growing volume of government red tape, CBI urges

BY ANDREW TAYLOR

AN ALL-PARTY parliamentary committee should be established to investigate the "growing volume of government red tape which is strangling industry" the Confederation of British Industry has said.

Sir James Cleminson, CBI president, said: "We have given the Government a list of 100 regulations which need to be abolished or changed. We are also calling for greater consistency and a more helpful attitude from officials".

Sir James claimed that from next spring 17m mail order customers would be obliged to sign formal documents using complex legal language instead of the simple procedures now used. This was because part of the Consumer Credit Act was due to come into force which would affect more than 100m transactions a year.

Sir James said there were only six companies in this industry and they had been given a clean bill of health by a government committee in 1971.

He said the CBI was asking for a limit to be set on the amount of new legislation affecting business as well as regular reviews and estimates to be published showing how much it costs for industry to comply with regulations.

Sir James said consultation should take place with business before regulations were introduced. They should also be written in plain English. Overlapping requirements between Government departments should also be avoided.

"What we are saying is that it is time for the Government to cut out the gobbledegook and ensure that the right hands of the 'men from the ministry' know what their left hands are doing.

Confederation of British Industry
Centre Point
103 New Oxford Street
London WC1A 1DU
Telephone 01-379 7400
Telex 21332

From
Sir Terence Beckett CBE
Director-General

R. 2211, CF PPS.

CBI

The Rt Hon Margaret Thatcher, MP
The Prime Minister
10 Downing Street
London
SW1

21 January 1985

Dear Prime Minister,

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

On 3rd January I sent you a draft submission on your scrutiny of administrative and legislative burdens on business. I thought you would like to know that this submission was unanimously endorsed by our Council last week.

The Council also authorised preparation of a version of the report for publication, demonstrating our concern that this important subject continues to receive attention.

One particular point which was raised in the debate concerned the regulations under the Consumer Credit Act 1974 which are to come into effect in May. Members felt that it was wrong that at a time when efforts were being made to reduce burdensome legislation a whole new tranche of very complex and costly controls was being introduced. It was suggested that it might be appropriate to defer introduction of these new regulations, pending decisions on the outcome of your scrutiny.

Yours sincerely,

Terry Beckett.

Econ 201: Small Firms Pt 5.

Confederation of British Industry
Centre Point
103 New Oxford Street
London WC1A 1DU
Telephone 01-379 7400
Telex 21332

From
Sir Terence Beckett CBE
Director-General

CBI

Prime Minister (2)

CBI are making good progress in assembling their submission. No need to read, merely to be aware.

AT 8/1

The Rt Hon Margaret Thatcher, MP
Prime Minister
10 Downing Street
London
SW1

3 January 1985

Dear Prime Minister

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

Many thanks for your letter of ~~11~~ December.

I am pleased that you have extended the deadline for comments on general issues relevant to the reduction of regulation. You will appreciate that, given the intervention of the Christmas holiday, we will be unable to consult our members in much more depth than we have already done, but the extension does give us a chance to present our draft submission to the next meeting of our Council on 16 January, for their formal approval. I will ensure that their comments are passed on to the Scrutiny Team and Mr Trippier before 18 January.

However, given the Team's tight timetable, I thought they would like to have our views before then and I have therefore already sent our draft submission to the Team leader on the understanding that is is not yet approved. I enclose a copy for your information.

May I reiterate our interest in this initiative and our willingness to help further. I look forward to learning how this initial stage is to be followed up.

I am copying this letter and the enclosure to David Trippier.

Yours sincerely

Terry Beckett.

Confederation of British Industry
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103 New Oxford Street
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Telex 21332
Facsimile 01-240 1578

Director-General
Sir Terence Beckett CBE

Secretary
Denis Jackson

CBI

SUBMISSION BY THE CBI TO THE GOVERNMENT

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

GENERAL POINTS

INTRODUCTION

1 The CBI has been invited to submit comments to the Government appointed Team carrying out a scrutiny of the adminstrative and legislative burdens imposed on business by government.

2 We have consulted our members as widely as possible in the time available; a list of Standing Committees and Regional Councils who have commented is at Annex 1.

3 A number of detailed comments and recommendations for change have been made in most of the subject areas covered by the scrutiny. These have been passed separately to the relevant members of the Team, and are appended here in Annexes 2 - 8.

4 The main purpose of this paper is to identify more general points which have arisen and which are applicable to regulation across the board. These are divided into three sections - the construction of regulation (paras 6 - 16); its enforcement (paras 17-22) and the future control of its impact on business (paras 23-38).

5 This is an enormous subject. We welcome the "Task Force" approach of the initial scrutiny as an effective means of promoting rapid action. But the short time allowed for the Team to report has necessarily restricted the CBI's input insofar as effective consultation on such detailed issues takes considerable time. We very much hope that further work will be done on this subject in the New Year, to which the CBI and sectoral Trade Associations will be able to contribute.

THE CONSTRUCTION OF REGULATION

6 In examining existing legislation a number of points have been raised which are common to all policy areas. These can be summarised under four headings, which we recommend that the Government should use as guidelines when any new domestic legislation or administrative requirement which will affect business is being prepared in future, or when proposed legislation from Europe is being evaluated.

Consultation

7 When a proposed piece of legislation is expected to have a significant impact on business behaviour, it is essential that those parts of business who are to be most affected by it are thoroughly consulted at an early stage during its preparation.

8 Not only will this help to identify, and perhaps reduce, the burden of compliance, but it will greatly increase the chances of the objectives of the legislation being achieved, as it will enable impractical and unenforceable proposals to be screened out.

Comprehensibility

9 It is appreciated that legal requirements sometimes dictate that legislation is couched in highly technical terms, but we do not believe that in many cases this is an adequate explanation of the incomprehensible drafting encountered. It is importnat that legislation and administrative requirements are drafted in as understandable a way as possible, and are accompanied be clear, simple guidance notes, enabling firms to understand easily what they are required to do, without having to call in legal experts.

10 Such guidance notes will reduce the costs of compliance both for small firms, who often have to purchase specialist advice from outside, and large multi-operation firms, who have to explain the implications of new regulation to a large number of managers and supervisors.

11 A similar point can be made with respect to requests by Government of business for information, whether to collect statistics or in connection with applications for Government aid.

12 Forms must be simple, unambiguous and preferably request information in a form which the business will have readily at hand for its own management purposes. Not only does this help save time for the business, it also reduces officials' time in following up incorrectly completed returns.

13 We would give as an example the simplification of the application forms for Regional Development Grants in 1981, which cut costs and improved efficiency without, to our knowledge, any noticeable increase in fraudulent grant claims.

Consolidation

14 The piecemeal development of regulation, the three tier system of government (local, national, European) and, within each tier, the division of policy responsibilities amongst several departments leaves considerable scope for overlap, duplication and inconsistency.

15 To quote just one example, a new building will be subject to Building Regulations (DoE) Fire Regulations (Home Office) and Health and Safety Regulations (Home Office and D Em) all of which may make different, and in some cases conflicting, demands. This leads to confusion and wasted time for both business and the officials concerned.

16 Whenever a new piece of regulation affecting business is being considered, adequate attention must be paid to existing regulation:

- in the same policy area, and at the same level of government;

- in the same policy area but at a different level of government;

- in other policy areas which overlap and which may be under the control of a different department or even level of government.

ENFORCEMENT

Two general points can be made here:

Consistency

17 Consistency in the interpretation of regulation, in the attitudes and approach of officials and in the standards set is vital, over time, across different geographical areas and, whilst there remain problems of overlap, across different policy areas and levels of government.

18 Whilst flexibility in interpretation can sometimes be to a company's advantage, on the whole it leads to confusion, uncertainty and wasted resources. This is particularly true for businesses which have operations in several different parts of the country where, to take just one example, the enforcement of Trading Standards and Consumer Protection Law can differ markedly from authority to authority.

19 Those who have responsibility for the enforcement of regulations should receive comprehensive and periodic training on the nature and scope of the powers and functions assigned to them.

Attitude

20 The attitude of officials is something which may be difficult to influence, but the assumption that the company is "guilty until proved innocent", which has been encountered most frequently in the Taxation and Customs and Excise field, is highly resented.

21 Similarly in the planning field, the initial presumption often seems to business to be against the proposed development, although this is not universally so.

22 An attitude of helpfullness towards business, and tolerance of genuine errors with the necessary corollary of very high penalties for conscious fraud, should be vigorously encouraged. One way of facilitating this may be for officials of Departments which have major regulatory functions to spend some time - say, one day a month during a training period - with companies who are willing to demonstrate the impact of legislation on their business. We know of companies which have come to such an arrangement with officials which has proved beneficial to both parties.

CONTROL OF THE BURDEN

23 Whilst the construction and enforcement of regulation would be improved, with consequent reductions in compliance costs, if the proposals in paras 7-22 were adopted, more changes are needed if the burden of regulation is to be kept continually under control.

A limit on the amount of regulation

24 Many companies, whilst finding it difficult to pin point particular legislation or administrative requirements which are unduly burdensome, feel that it is the totality of regulation which is the problem and in particular the apparently rapid increase in that total, not least because of new law emanating from Europe.

25 A limit should be placed on the amount of new regulation affecting business which can be introduced in any year. Apart from giving business a chance to adapt to new requirements, a control of the flow is particularly important given the desirability of consulting business when the regulation is being prepared (paras 7,8). There is clearly a limit to the amount of time business can devote to such an activity.

26 The maximum amount of new regulation permitted per year and the means of controlling it, bearing in mind that both primary legislation and statutory instruments issued by individual Ministers will need to be taken into account, should be the subject of discussion between the Government and business representatives.

Stability

27 The frequency with which the demands made on employers by government are altered of itself imposes a considerable administrative and financial burden and can disrupt employers' established procedures. No change should be introduced unless the advantages clearly outweigh the inevitable disruption which will follow.

Impact Statements

28 At present any new legislation is required to contain a statement of its likely effect on public sector manpower. Similarly, new legislation should be required to include a statement of the likely costs to business of complying with it.

29 It is recognised that the estimation of compliance costs is not an exact science. Nevertheless, there is sufficient experience in other countries (notably the USA) to suggest that at least estimates of orders of magnitude can be achieved. And the need to make some attempt at estimating costs will encourage the legislators to give thorough consideration to the impact of their proposals on business.

30 New legislation should also be required to show, as far as possible, what other legislation it overlaps with. Again, the discipline of preparing such a statement will be useful in encouraging legislators to give full consideration to the need and scope for consolidation (see paras 14-16).

Sunset Provision

31 Legislation can rapidly become outdated as the circumstances it is intended to influence change, or new factors are introduced. Sometimes experience of operation shows that it does not achieve the objectives it was intended to, or that the costs of complying with it are much greater than originally envisaged.

32 Whenever a new piece of legislation which will affect business is introduced, a time period should be specified after which the impact on business, in the light of the success or otherwise with which the objective of the legislation is being achieved must be reviewed, with a view to modification of the legislation if it is judged that the disbenefits are no longer outweighed by the benefits.

Parliamentary Committee

33 The drafting of legislation, the preparation of impact statements, and reviews, are necessarily made by expert officials under the guidance of specialist departmental ministers.

34 There is a strong case for a separate, all-party Parliamentary Committee of generalists, with a "watchdog" role. As far as new legislation is concerned they would need to satisfy themselves that the guidelines of consultation, comprehensibility and consolidation had been satisfactorily followed; that adequate impact statements had been drawn up and that the maximum limit on new legislation had not been breached.

35 If 'sunset provision' were introduced, the Parliamentary Committee would consider the results of the reviews and make recommendations to Parliament for change, and they would be empowered to institute examination of the impact on business of any area of existing legislation, taking external evidence as necessary and reporting back to Parliament in a similar fashion to current select committees.

36 It is for consideration whether the committee should tackle its survey of existing legislation on an ad hoc basis, or whether it should institute a regular programme of review in each department, reporting back to the committee on a regular basis.

37 The committee should prepare and publish an annual report to Parliament.

European Commissioner

38 Throughout our consultation exercise the amount and burden of EEC legislation has been frequently raised. It is recommended that the scrutiny of the effects of such legislation on business, both when it is being prepared and after it has been in operation for some time, should become a responsibility of one of the senior Commissioners - most obviously the Industrial Commissioner - possibly supported from ouside the Commission by the EEC Court of Audit.

39 It can also be argued that the Commission too often looks to harmonisation of laws, when they might instead promote an exchange of information on existing legislation in the Member states, to see whether countries which have no law, or only a rudimentary one, in the area concerned, might learn from those with more advanced legislation.

RECOMMENDATIONS

40 We recommend to Government that the propsals put forward in paragraphs 7 -39 are adopted.

41 Clearly this cannot be done overnight; it is therefore vital that the study of the impact of regulation on business which has been started with the present scrutiny continues to be pursued with vigour, and that business is given futher opportunities to contribute to it.

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SUBMISSION BY THE CBI TO THE GOVERNMENT

SCRUTINY OF ADMINISTRATIVE AND

LEGISLATIVE BURDENS

ANNEXES

Annex 1: Committees consulted on administrative and legislative burdens

Production Committee
Marketing and Consumer Affairs Committee
Contracts Panel
Companies Committee
Company Law Panel
Private Members' Bills Panel
Industrial Property Liaison Group
Commercial Law Panel
Competition Law Panel
Health and Safety Policy
Fire Protection and Insurance Panel
Employment Policy
Equal Rights Panel
Industrial Relations and Wages and Conditions Committee
Industrial Relations sub-Committee
Environmental and Technical Legislation Committee
Minerals Committee
Land-Use Panel
Genetic Engineering Working Party
Taxation Committee
Consultative Group on Taxation
Statistics Working Party
Director General's Group of Employers Organisations and Trade Associations
Smaller Firms Council
Regional Councils in all 13 regions of Great Britain.

Annexes 2 - 8: Comments on Regulation in Specific Areas

2. Company Law; Consumer Law; Data Protection

3. Employment Legislation

4. Planning and Evironmental Matters

5. Taxation: Inland Revenue and Customs and Exercise

6. Customs and Excise: Trade Issues

7. Standards; Weights and Measures

8. Statistics

ANNEX 2: COMPANY LAW, CONSUMER LAW, DATA PROTECTION

COMPANY LAW

Dormant Subsidiary Companies

There are two areas which, with advantage, could be simplified.

Accounts

As subsidiaries of a PLC dormant companies have to produce and file annually a Directors' Report and Annual Accounts - albeit no longer requiring auditing.

a For a company which is wholly dormant it is suggested that it would be sufficient if, with the Annual Return, the Directors made a statement that:

i the company was dormant within the meaning of Sec 12 of the CA '76;

ii that there was no change in the last filed balance sheet "as at .....";

iii the company regarded the PLC as its ultimate holding company.

b Where a company is financially dormant but trades under an agency arrangement with another company (do all, take nothing) and this fact is recorded in the Directors' Report, then one could make a case for filing only a certificate as in (a) above. However, it is not known how many, if any, companies have this concept of "trading" which is peculiar to one of our respondent members.

If such companies were only to file a certificate as in (a) above, then if they move from being wholly dormant ((i) above) to active trading or trading under an agency agreement they would, once again, have to file a Report and Accounts annnually - audited in the former case.

Annual Returns

A considerable amount of detail concerning a company's capital is repeated each year (shares issued for cash, other than in cash, etc) and in a large number of cases, probably all, in the case of wholly owned subsidiary companies, it will not change.

There is a case, therefore, for a simplified Annual Return.

a One view is that it should state, perhaps, the authorised and issued capital only with a note that there has been no change in the capital details since the last "full" Annual Return "as at ....." - which might be every five years (for example) or only when there is a change in the capital detail. Other details required by the Annual Return would continue to be shown.

b This idea could be refined futher by filing an Annual Return which certified that there had been no changes in any of the detail since that given in "the Annual Return as at .....". Again, the period between full Annual Returns could be, say, five years. (This would probably be acceptable to the Registrar, as such a period could easily be covered by the currency of the micro-fiche record kept for public inspection (at present approximately three years for Annual Return and Report and Accounts.)

c Could there be greater recognition in company legislation of the concept of groups of companies? For example, could wholly-owned subsidiaries be relieved of requirements to submit annual and other returns to the Registrar of Companies, perhaps with a proviso that such information as is now filed with the Registrar of Companies, is to be available for public inspection at the registered office of the holding company, with penalties for non-compliance.

d Similarly, could holding companies themselves be required to file an Annual Return and no longer have the burden of filing details of changes in Directors, other Directorships, again with a similar provision about public inspection?

Liquidation

This process is frequently hindered by the difficulty in providing Taxation Departments with certain basic historic financial and share capital information. On other occasions Taxation request that a dormant company be kept because of the possibility of using Capital Gains Tax losses some time in the future, or because an actual capital gains payment would result from liquidation.

It would be of great assistance to all groups of companies if there were company law and taxation legislation to allow a parent company to assume the liabilities and assets of its subsidiary - either on liquidation of the subsidiary or by merging the subsidiary into the parent as can be done in Canada under the Canada Business Corporations Act - Sec 175 et seq.

Loans/Quasi Loans to Directors - Disclosure in the Accounts

S50(2) and (2A) of the CA 1980 permit small loans/quasi loans to Directors up to £2,500 and £1,000 respectively.

S54 and S55 require details of such loans/quasi loans to be disclosed in Notes to the Accounts, together with the names of the Directors concerned.

It is suggested that for such relatively small amounts disclosure in the Notes to the Accounts should not be required.

1981 Companies Act

The requirement to draw up and prepare accounts for members is onerous and unnecessary when the only members of a company are its directors. The disclosure requirements vis-a-vis accounts are especially costly and onerous for small businesses.

1980 Companies Act Section 3 and Section 4

Requires a company to obtain a trading certificate. Is this necessary if it submits both a memorandum and articles to be lodged at Companies House? Connected with this are the conditions which have to be fulfilled before a trading certificate is granted. By the 1948 Companies Act S109, the capital requirement which had to be fulfilled was in the nature of a duty for directors of the company. By the 1980 Companies Act Section 4(2) this requirement becomes statutory.

Companies Act 1948 S209 and related Sections

This area has caused considerable criticism. In straightforward mergers by acquisition of shares it is untidy and unsatisfactory that so many different methods should be available, each with different safeguards. Secondly, that in relation to all types of reconstructions and mergers the present safeguards are not always enough. The need for special majorities is inadequate protection since those in control can in practice force their will on a minority. The proxy voting system places a weapon in the hands of the controllers which is so potent that its force is hardly blunted by the special provisions for disclosure. Even the right to contract out, conferred on dissenting members in reconstructions under Section 287, is of dubious value because of the practical difficulties in proving the true value of their shares. Finally, the protection on which the greatest store has been set - the discretion of the court, has not always proved effective, though there are some signs recently of a greater readiness to intervene. For reluctance to do so the judges cannot fairly be blamed; the truth is that our court procedure is ill-fitted for enabling them properly to pass judgment on the economic merits of schemes and to make the valuations and accounting investigations necessary before they can do so. Hence they are naturally reluctant to substitute their opinions for those reached by large majorities of the members. The most they can do is to ensure that the prescribed formalities have been strictly observed and that decisions have been reached after full and fair disclosure. They are also astute to pick on some flaw in the procedure, if, notwithstanding the vote, they have serious doubts about the fairness of any scheme, This, and the scrutiny to which reconstructions are subjected by the professional advisers, who will have to support them in court, are very real safeguards.

The difficulty, however, is that the courts and counsel are primarily concerned with the legal rights of the parties. Provided these rights are not infringed it is difficult for them to intervene effectively, however inequitable the results may be. It is this which has resulted in the undoubted hardship in some cases. If unfairness is always to be prevented, the role of the courts needs to be replaced, better still, supplemented by an administrative agency similar to a Department of Trade Inspector or a Companies' "Ombudsman". In recognition of this the Scottish courts make a practice of referring schemes to a reporter (generally he will be a chartered accountant or solicitor) whose report they consider before confirming. This practice may account for the fact that the intervention of the Scottish courts seems to have been somewhat more effective than that of the English. In the case of mergers and take-overs the City has established the Panel to Police the Code, but the sanctions available to the Panel are limited and, in any case, its role is to see that the rules are observed, not that the terms of the scheme are fair. In USA, under Chapter X of their Federal Bankruptcy Act, an administrative agency - the Securities and Exchange Commission - acts in reconstructions as impartial representative of investors and expert adviser of the courts. It is arguable that some such solution should be attempted in England.

The vast majority of companies are not controlled by dishonest people and most schemes are carefully considered and are meant to be fair. The real protection of investors and creditors is the force of public opinion represented by informed criticism in the financial Press, and the improved standards of commercial morality which it has produced. Though the courts may be relaxing their control, there is no doubt that in the last thirty years the general standards of fairness displayed in reconstruction schemes have improved.

Of current interest are the new rules being introduced by the Stock Exchange which, to comply with EEC law, have the force of statute. There is, of course, the usual antipathy towards change which, in due course, will no doubt dissipate. Nevertheless, companies will, from 1 January 1985, face a considerably greater burden of disclosure for rights issues, certain acquisitions etc, which most (including the FT's Lex column) believe will be of limited, if any, value to all but the most demanding and inquisitive investor.

The Audit Requirement for Small Companies

It would appear to be opportune to look again at the need for, and impact of, the statutory audit requirement on small companies.

The Companies Act 1948 required every company incorporated with limited liability to have an audit performed by an independent auditor. Small companies, "exempt private companies", were excused from filing their Accounts and Audit Report, and the auditors did not need to be qualified or independent. The Companies Act 1967 abolished these exemptions.

This paper does not attempt to review all the arguments for and against the audit requirement (though these could be made available). We suggest the following alternatives:

a a statutory examination or review differing in purpose and method from an audit;

b no legal requirement for companies below a certain size;

c shareholders would have the option to vote for the removal of a particular company's audit requirement.

We might ask ourselves whether the problem is really that of the need for an audit for small companies or, rather, why there are so many small limited companies. There would be fewer limited companies requiring audits if:

a the effective tax rights applicable to incorporating and unincorporating entities were the same;

b businessmen had confidence in trading without a corporate framework: a new type of entity such as limited partnership might be appropriate;

c there were simpler means of protecting a corporate name.

Compay registration

The loss of registration of trading titles is regretted, as it is now difficult to control the misuse of company titles by others. Reinstatement would be of benefit.

Specification of Objects

Memorandum of British Companies covers numerous objects which are unnecessary to list given that they are covered by legislative restrictions already. In addition to the Companies Acts themselves, the Prevention of Fraud (Investments) Act 1958, and recent subordinate legislation, and Licensed Dealers (Conduct of Business) Rules 1983 (S1 83/585) provide but a few examples. Although legislation has contributed to good order, it is admitted that in itself it has been powerless to prevent all corporate catastrophes, although many consider that the law will never discipline human ingenuity to the extent of suppressing all malfeasance. In spite of this the Memorandum, some feel, is not the most appropriate means of enabling control of the objects of a company, given that these can be changed quickly at any time by special resolution. It is argued that members can secure better control in pursuit of the objects through a shareholders' agreement on incorporation, rather than by the Memorandum. Other techniques for control might include the endorsement on share certificates of relevant conditions akin to the practice of issuing debentures, and a more widespread and effective use of service agreements for member directors.

More importantly S9(1) of the European Communities Act 1972 has in effect destroyed the ultra vires rule, as any transaction decided on by the directors is deemed to be free from any restriction under the Memorandum, subject to certain qualifications.

The time has come, therefore, to relegate long objects clauses to the past. The introduction of incorporation in short form without a lengthy memorandum would result in great savings of drafting, recording, storage and searching for the DTI and the companies themselves.

General Points

Our members repeatedly made the point that the incomprehensibility of legislation caused companies, even large ones with expert legal staff, to waste time and therefore money. Much effort was also expended in monitoring, understanding and assessing the likely impact of European Commission proposals, many of which were opaque and advanced, without serious justification.

In advancing their various proposals for deregulation, our members felt that companies, in benefitting from the principle of limited liability, were obliged to expect a certain degree of regulation in the wider interest. They therefore thought it unlikely that the Government was trying to initiate a radical reform of company law which would necessitate fundamental and, in the short term, costly changes. Many of the submissions, therefore, are likely only to have a marginal impact on company operation should they be implemented.

CONSUMER LEGISLATION AND ENFORCEMENT

Advertising

The Price Marking (Bargain Offers) Order 1979 and the Trade Descriptions Act 1968, especially S11, control the method of advertising offers and prices. The Bargain Offers Order originates from the recommendations made by the Director General of Fair Trading under S2(3) of the Fair Trading Act 1973, proposing a ban on a wide range of "bargain offer claims" which may mislead or confuse consumers. The Order was subsequently made under S4(3) of the Prices Act 1974 and has to be read in conjunction with S11 of the Trade Descriptions Act 1968 which has different and additional controls on pricing.

(a) Impact

The Bargain Offers Order is wide in scope but obscure; it is impossible for honest traders to know if they are complying with the law unless they keep to a narrow band of possible advertisements. Considerable time and trouble has to be taken to give advice as to what is permitted and even then it cannot be authoritative.

Furthermore under the Trade Descriptions Act 1968 there is discrimination against a retailer who gives additional price information to customers on barker cards/channel tickets in addition to pricing individual items by putting him at a greater risk of breaching the above legislation.

(b) Recommendations

(i) That the Bargain Offers Order be revoked. If any further protection is necessary, it should be incorporated into the revision of S11 of the Trade Descriptions Act 1968.

(ii) That the defences under the Trade Descriptions Act be brought up to date, as they have been in the case of Weights and Measures and Consumer Safety legislation where there is a single limbed defence of "all reasonable precautions" and "due diligence". An honest trader should be able to plead honest mistake.

Repricing of Food

The Food (Prohibition of Repricing) Order 1978 made under S2 of the Prices Act 1974 prohibits the repricing upwards of any food items which have been displayed for sale marked with a price.

(a) Impact

It is an unwarranted restriction on retailers who need to respond to market forces and particularly those retailers who put prices on the goods on display. It causes additional work in running old stock out and in checking that old stock on display has not been repriced upwards.

(b) Recommendations

The Order should be revoked.

Weights and Measures

The Weights and Measures Act 1963-79 together with over 100 statutory instruments control the sale of goods by weight or measure and the weighing and measuring equipment used.

(a) Impact

Although not controversial, the provisions are complex to administer. For example; packs packed to a predetermined quantity are covered by the average weight system of control whereas packs packed to random quantities are still controlled by the minimum weight system of control.

Furthermore metrication has not yet been completed and this causes confusion amongst customers and leads to the possibility of mistakes in labelling and pricing.

(b) Recommendations

(i) That the average weight system which only applies to items packed to a pre-determined quantity should also apply to catchweights (that is to items packed to random quantities eg, bacon and cheese) as modern packaging techniques are so controlled that there is no reason why an average weights system should not be applicable to them.

(ii) The metrication process should be completed urgently including its applicability to catchweights. At present, for instance, jam, marmalade, molasses, syrup and treacle can only be packed in prescribed imperial units, whereas rice, milk, tea and coffee can be packed in either imperial or metric prescribed units and salt, flour and sugar can only be packed in metric units.

Weekday and Sunday Trading

Under the Shops Act, there are constraints on hours of opening branches both during the week and on Sunday.

(a) Impact

Weekday late opening prohibitions caused problems with some local authorities and there is variable enforcement of the prohibition.

Sunday trading prohibition has caused some stores to be prosecuted and injunctions have been granted to prevent repetition of Sunday opening despite the fact that the law had not been consistently applied to competitors.

(b) Recommendation

That the Auld Report be implemented as soon as possible as it has increased the variability of enforcement of the existing legislation and is putting both traders and Local Authorities under considerable pressure.

Enforcement of Trading Legislation

There is variability of enforcement and defences under the Weights and Measures, the Consumer Safety, the Trade Descriptions and the Food and Drugs legislation. This cause differences in meeting the legislative requirements and has a capricious effect on trading.

(a) Impact

Although County Councils and London Boroughs are designated, for example, as Food and Drugs authorities, permissive powers are conferred on District Councils to take proceedings in respect of extraneous matters on food and County Councils are able to enter into agency agreements with District Councils to enforce the Acts on their behalf. This leads to fragmentation of enforcment and adds to the problems of companies.

The Trade Descriptions Act 1968 is frequently used by prosecuting authorities instead of the Food Act 1984 and the Weights and Measures Act 1963-79. The Trade Descriptions Act 1968 allows trial on indictment and prosecutions under this Act appear to be more important, attract more publicity and give Local Authorities more powers.

Because the Local Authority can choose under which Act to prosecute, unfortunate results come about. For instance; the effect of the Pears Astral Cream case which was brought under the Trade Descriptions Act instead of the Weights and Measures Act, has caused the Local Authority to question use of double skinned jars for "j" cosmetics and pressure is being brought to bear to change containers.

Under the Consumer Safety and Weights and Measures legislation, there is a single limbed defence respectively of "due diligence" and the average weights system and tolerances which reduces the "one off" risk of prosecution. Under the Trade Descriptions Act addtionally a third party has to be named and this has resulted in employees having to give evidence in court on behalf of the prosecution. Generally under the Trade Descriptions Act a mis-description has to be false to a "material degree". Under the Food Act, in order to establish a defence, the third party has not only to be named but to be prosecuted at the instigation of the accused. This is an even more counterproductive requirement of that defence. In the case of the Food Act a contravention has to be to the "prejudice of the purchaser". All these differences between the Acts cause difficulties and variability in their enforcement.

A trader having to involve his employee in defending himself by either naming them or prosecuting them damages good industrial relations in that employees respectively have to give evidence against the employer in court or run the risk of a criminal conviction.

(b) Recommendations

(i) That a central authority be given the responsibility of coordinating proceedings for any trading offence committed by an undertaking which trades in more than one enforcement area.

(ii) That a single limbed defence of "due diligence" and "all reasonable precautions" be provided for this type of legislation. Furthermore, an honest trader should be able to plead an "honest mistake".

(iii) In some of the Acts above, the law does not take into account contraventions which fall outside the tolerance of "material degree", "average weights system", or "to the prejudice of the purchaser". It is recommended that in mis-pricing offences there should be a defence of an "inconsiderable amount" or an "inconsiderable number being wrong" in the display.

(iv) In the case of Food Act contravention it is recommended that the courts should have regard to the quality of other goods of the same kind on offer at the same time unless the complainant is one involving a foreign object or, for instance, mould in product.

(v) The Trade Descriptions Act 1968 should be amended so that offences also capable of being brought under the Weights and Measures Act or Food Act may not be taken under the Trade Descriptions Act. If the Pears case had been taken under the Weights and Measures Act, a different finding is sure to have resulted as a truthful indication of the contents would have been a good defence.

Retailing Licences

A modern retail shop if it sells a variety of products requires a multiplicity of licences from separate authorites who separately enforce the restrictions imposed by the licences. In many instances there is little or no follow up by Local Authorities to see if the conditions of the licence are being observed.

(a) Impact

The following licences are required for a typical groceries supermarket:-

	Licence	Frequency	Obtained from
1	Ice Cream	Required only once	Local Environmental Health Authority
2	Shellfish	Required only once	" " "
3	Milk	Required every 5th year	" " "
4	Game	Annually but cannot be held by liquor licensee. The licence is in two parts, the Local Authority game licence and the Excise licence to deal in game	Different Local Authorities (Env. Health, Trading Standards, Town Clerk etc)
5	Petroleum	Annual or every two years	Local Fire Brigades or Trading Standards Authorities
6	Radio Communication	Annual	Home Office
7	Fire Certificate	Certifcation only once	Local Fire Brigade
8	Shops Registration	Registration and regular inspection under Offices Shops and Railway Premises Act	Local Enviromental Health Authority

ii) Liquor Licensing: Each branch selling liquor requires a liquor license held by named individuals (usually the Branch Manager and the Licensing Manager) and this gives rise to considerable administration when the named individuals move and the licence needs to be transferred.

b) Recommendation

(i) That a game licence should be abolished.

(ii) That a food shop should simply be registered as such with the Local Authority so that by such notification it can be subject to inspection but should not need the separate licences at present required.

(iii) That a company with more than one outlet selling liquor could be granted a company liquor licence which enables it to nominate the branch manager for the time being as a nominated licence holder. On change of managers the company would notify the magistrates of the new nominee without the necessity of appearance in court unless there is a formal objection.

(iv) That liquor licences should be renewable every five years instead of annually.

EEC

Many of the proposals of the European Commission on consumer protection are unwelcome and should be resisted unless the policies and legislation which are advanced fit in with normal UK trading patterns. Changes in the law of themselves involve compliance costs and amendment of, or addition to, UK consumer protection legislation should only be accepted if the aims of policy would be met at lower cost or there would be a clear gain through removal of obstacles to the free movement of goods between Member States.

DATA PROTECTION

Universal Registration

The CBI has always maintained that registration across the board, subject only to certain very limited exemptions, places an unnecessary burden on business, particularly on the smaller company or firm. The payroll and accounting exemption was intended to relieve some smaller firms of the necessity to register but will in practice probably benefit very few businesses. There is thus considerable scope for removing the registration requirements from other areas of business activity.

One possible area, for example, where the increasingly automated office is rapidly bringing virtually all personal data dealt with by companies within the Act's scope, would be "internal office administration". This would at least put outside the Act's scope personal data appearing in office "in-trays", more and more of which are now in computerised form and other material necessary purely for the internal operation of the company.

Power of Secretary of State to Make Exemption

The CBI has at various times also proposed that a power be given to the Home Secretary to exempt certain categories of data or operation from the scope of the Act. This power was, we argued, essential to keep pace with modern technology and the increasingly automated office illustrated above. For example, managers and salesmen are increasingly using personal computers as personal notebooks - the implications not just of registration but of the subject access and non-disclosure provisions of the Act for such uses are horrendous.

Refining of Existing Exemptions

Subsection 1(18) of the Act exempts word processing operations when performed only for text preparation purposes. It would be possible to widen this exemption so that it embraced the other purposes for which word processors are normally used, such as circulating and filing. No doubt other examples could be found.

Interpretation of the Act by the Registrar

There is, of course, considerable scope for the Registrar to interpret the Act in ways which would ease the burden on business. These might more appropriatly be taken up with the Registrar himself, but the sort of thing we have in mind might relate to the registration requirements; for example, the data user is obliged to provide one or more addresses for access by the data subject. Organisations with many branches, such as retail chains or banks, would obviously find it easier to receive requests at head office or some other central location than at each and every branch. A suitable ruling by the Registrar here could save companies considerable time and cost in dealing with request for subject access.

Annex 3: Employment Legislation

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

EMPLOYMENT LEGISLATION

1 The CBI was asked to contribute to the Government's "deregulation" exercise in mid-October. At that stage, the CBI had recently undertaken extensive consultation with its members to ascertain employers' attitudes on key aspects of employment, including the impact of employment protection legislation on job opportunities. This consultative exercise was supplemented by a detailed survey conducted for the CBI by Gallup. This addressed issues such as employers' attitudes to patterns of work, industrial relations and possible barriers to employment. Since then, the CBI has consulted its members as extensively as possible within the time available for comment on the present scrutiny of the Task Force, with specific reference to the administrative and legislative burdens imposed on industry in the field of employment by central and local government.

2 In the light of these consultations the CBI believes that there is some scope for alleviating the administrative and legislative burden imposed on employers. The areas in which the CBI believes progress could be made and which should therefore form part of the present scrutiny are identified below.

A EMPLOYMENT PROTECTION LEGISLATION

3 In the last few years, concern has consistently been expressed by CBI members about the sheer weight of the legislative and regulatory obligations imposed on employers. Only occasionally are specific provisions singled out as being particularly onerous. It is the mass of legislative and administrative provisions which employers generally find difficult to contend with and costly to implement. One of the principal problems is that of identifying the precise obligations which apply in different circumstances. This leads to the conclusion that irrespective of whether particular provisions are repealed or their impact lessened, anything which can be done to simplify the administrative and legislative burdens for employers will of itself be to industry's advantage. For example, the consolidation of the existing legislative provisions on both individual and collective rights would represent a significant step in the right direction.

4 Although the problems of compliance with the legislation are more pronounced for smaller firms, where financial and administrative resources are necessarily limited, they are by no means confined to them. Financial and administrative burdens can have just as much impact on large firms, particularly if they operate on the basis of de-centralised, autonomous units.

i Unfair Dismissal

5 Much of the concern expressed by CBI members over the unfair dismissal provisions of legislation relates not so much to the substance of the legislative provisions as to the costs which result from their associated procedures. These are considered in Section (v) below.

6 There is no clear support among CBI members for radical changes in the legislative provisions relating to unfair dismissal. Support for change is, however, felt most strongly among smaller firms. This reflects the finding of the recent survey conducted for the CBI by Gallup. It found that although there was general uncertainty about the employment implications of the abolition or reduction of individual employment rights, 17% of the smaller firms covered by the survey mentioned existing unfair dismissal arrangements as a possible impediment to higher employment.

7 It is interesting to note that in that survey, "smaller firms" were defined as those firms employing under 200 employees. This figure is radically different from that contained in current legislation. For example, the unfair dismissal provisions which extend the qualifying period of service to two years is for firms with 20 or fewer employees. This suggests that either the present threshold of 20 should be increased to cover a wider range of "smaller" firms where the relaxation will be more directly felt, or alternatively , possibly preferably, the requisite qualifying period of service should be increased generally. This would have the added advantage of matching the period of service required with entitlement to redundancy payments, and would thus help to simplify the provisions overall.

ii Equal Opportunities

8 There is considerable concern among CBI members about the increasing intervention by local authorities in companies employment practices and procedures. Increasingly companies are required, as a condition of inclusion or retention on an authority's approved list of contractors, to complete a detailed and searching questionnaire about their companies' policies and practices on equal opportunities, health and safety as well as a number of other matters. This imposes an unnecessary financial and administrative burden on employers. Such activities on the part of local authorities usurp and duplicate the function and responsibility exercised by other statutory bodies.

9 The CBI has always believed that commercial contracts should be awarded purely on commercial considerations without reference to extraneous factors. Commercial contracts should certainly not be used as vehicles for achieving social objectives. It is, therefore, our belief that measures should be introduced to curtail the power of local authorities to impose such requirements on contractors and to prevent the spread of such practices.

10 Some concern has also been expressed about the activities of the Equal Opportunities Commission and the Commission for Racial Equality. In particular, concern has been expressed about the level of financial and other assistance which the Commissions give to individuals in connection with legal proceedings brought under the Sex Discrimination and Race Relations Acts. In some instances, cases are pursued to the higher appellate courts in circumstances where it is likely that proceedings would not have been instituted at all without backing by the Commissions. Individual complainant's costs are, in effect, funded from the public purse. For the employer, however, the costs in terms of time and money associated with such "test" cases can be considerable.

11 This clearly indicates that the operation of the two Commissions should be subject to close scrutiny. However, more specifically, measures should be introduced to limit the financial support which the Commissions can give

to individual complainants. Alternatively, the Commissions should be required to pay the costs incurred by an employer who successfully defends a case sponsored by them.

iii Maternity and Redundancy Payments

12 A number of CBI members have expressed concern about the responsibility of making maternity payments to employees which the employer is then able to recover from the Maternity Pay Fund. Individual respondents have put forward various suggestions for altering the present system which would, to a greater or lesser extent, alleviate the burden imposed on employers.

13 It has been suggested, for example, that the responsibility for making maternity payments should be transferred altogether from the employer to the State. An alternative proposal is that employers should be able to recover maternity payments to employees by making appropriate deductions from their National Insurance contributions in exactly the same way as for Statutory Sick Pay. The present system requires employers to, for example, pay to the Inland Revenue their share of National Insurance contributions on the gross amount of the maternity payment due which the employer is then able to recover in full from the Fund. The view has been expressed that this introduces an unnecessary and time-consuming administrative step which should be eliminated.

14 In any case, the paperwork involved in obtaining both maternity and redundancy rebates should be carefully examined to ensure that only relevant information is sought. The CBI recognises that some progress has already been made in this area and welcomes the simpler procedures recently introduced for employers claiming redundancy rebates. Under the new procedures, employers no longer have to provide details of rebate claims in advance. Efforts should, however, continue to be made to identify areas in which the paperwork involved for employers can be reduced.

iv Guarantee Payments

15 The right to a statutory guarantee payment should be excluded where workers are laid off as the result of extraneous industrial action. It is inequitable that employers should be required by statute to make guarantee payments where normal working is disrupted by industrial action over which they have no control and the outcome of which they cannot influence.

v Industrial Tribunal Procedures

16 There is increasing concern among CBI members about the growth of legalism in industrial tribunal proceedings. The original intention that industrial tribunals should provide a forum for the speedy, informal and inexpensive resolution of grievances arising in the course of employment has not been fulfilled in practice. The possibility of legal proceedings against the employer has become a very real threat because of the costs and delays associated with industrial tribunals. The changes that need to be considered are detailed and thus probably not within the immediate purview of the Task Force. However, the CBI is in no doubt that there should be a comprehensive review of the workings of industrial tribunals to ensure that the original objective becomes a reality.

17 In particular, the CBI believes that further measures should be introduced to discourage the pursuit of meritless cases. Some progress has, of course, already been made on this front by the introduction of a pre-hearing assessment stage in industrial tribunal proceedings and the widening of the grounds on which costs may be awarded. These measures could usefully be supplemented by, for example, requiring the applicant to deposit a fee in order to commence proceedings before an industrial tribunal which would be refundable if the case proves successful. Another possibility would be to empower industrial tribunals to dismiss meritless cases at the pre-hearing assessment stage, rather than merely giving a caution as to costs. In addition some members have suggested that proceedings might be more speedily completed, especially where the case is meritless, if the training given to industrial tribunal members emphasised the powers available to them to dispose of cases. In any event, irrespective of the effect on meritless cases, this might help to reduce the time proceedings take which some of our members perceive to have steadily increased over the last few years.

B HEALTH AND SAFETY

i The Duties of the Health and Safety Commission

18 The CBI considers that compliance costs of health and safety legislation should be kept to the lowest level consonant with standards in the workplace that are socially acceptable. This balance can be achieved most expeditiously if the Health and Safety Commission is required to:

- quantify the costs and benefits of all its proposals for Regulations and enforceable controls;
- to identify in advance the scientific, medical and technical evidence on which it relies in assuming such benefits; and
- to propose only those solutions that are shown to be cost-effective in the situation under study.

The CBI recommends therefore that the legislation should be amended to require the HSC when making proposals to set out the evidence of benefit, quantify it so far as practical and quantify too the costs of the proposals to Society as a whole.

ii Workplace Health and Safety

19 Many of the compliance costs imposed on business in the field of health and safety stem from the operation of Section 1(2) of the Health and Safety at Work Act. No serious attempt at de-regulation in this field can be made without grappling with this part of the Act. This subsection reads as follows (CBI stress):

"S.1(2). The provisions of this Part relating to the making of health and safety regulations and the preparation and approval of codes of practice shall in particular have effect with a view to enabling the enactments ... and other instruments ... to be progressively replaced by a system of regulation and approved codes of practice ... designed to maintain or improve the standards of health, safety and welfare...".

20 The CBI strongly recommends the review and amendment of this subsection of the Act in order to permit the HSE to repeal archaic law in for example the areas listed in paragraph 26 below.

21 The reason for the CBI objection to this subsection is its ambiguity in law. It has been interpreted to mean that no section of a statute nor regulation under statute that relates to health or safety can be repealed unless replaced by a requirement of equal weight and standing in law.

22 It has been interpreted to operate without regard to the merits or relevance of the old legal requirement to present day technology, industry or society.

23 It has in effect prevented any deregulation relating to health and safety. No significant regulation or sections of an Act has yet been repealed without replacement: no significant proposal has yet been made by the HSE for repeal without replacement.

24 The result of this interpretation is that the Commission has foisted on it by the relatively deadhand of history a set of out of date priorities and attitudes. The Commission is prevented from choosing these things for itself and is subjected to unnecessary tensions in seeking to reconcile archaic approaches with contemporary needs. It cannot use its own judgement in determining areas of work and stringency of control.

25 For the most part, these tensions lead simply to much waste of the time of officials in attempts to justify either the persistence of outdated systems in new legislation or the abandonment of patently absurd attitudes in potential conflict with Section 1(2). This waste of Government resource should perhaps be of as great concern to Government as to employers: the employers' concern is still greater where the existence of Section 1(2) leads to official proposals for legal controls of excessive stringency that might have suited the past but are inappropriate to the present day.

26 Examples of both types of unnecessary tension and regulation are:

- The revival of the old concept of 'adequacy' to govern the standard of control in the proposed regulations for the control of hazardous substances is a misplaced attempt to repeat the needlessly strict standard of Section 63 of the Factories Act.

- The current proposal for an Approved Code of Practice on Fumigation which though outdated is apparently necessary to replace.

- The current proposals for absolute requirements in the Electricity at Work Regulations.

- The current discussions on licensing of petroleum installations in the Flammable Liquids Regulations.

- The recent discussions on the 'practicable' rather than 'reasonably practicable' requirements in the proposed Control of Asbestos at Work Regulations.

- The recent discussions on the proposals to replace by new Regulations and/or Approved Code the discriminatory legislation that prevents women from working at night.

- The discussions in 1982/3 on the proposals to replace the wholly absurd obligation under the Offices Shops etc Act and numerous other old Acts to post abstracts of the law on noticeboards.

- The virtual abandonment by the HSC of attempts to repeal outdated and unnecessary laws and regulations even though at times they either relate to non-existent industrial activities or are known to impede existing sectors from increasing their competitiveness, eg the Pottery Welfare etc Regulations.

- Protracted discussions on several parts of the two sets of Conveyance of Dangerous Goods by Road Regulations that were required to reproduce the same level of requirements as those under the Petroleum Consolidation Act 1928.

- Protracted discussion on aspects of the Control of Lead Regulations.

- The current proposals for regulations on manual handling of loads by regulations with impracticable and unenforceable absolute duties for employers in an attempt to reflect Section 72 of the Factories Act.

27 Amendment of this subsection is thus needed to clarify first that it relates only to genuine "standards", that is descriptions of good practices or procedures. Secondly, amendment should clarify ways in which repeal is permitted where an extension of scope is proposed even with a potentially less stringent obligation. Thirdly, the amendment should be made to allow repeal of archaic law where it is evidently obsolete and needs no replacement, or replacement only at a lower level and reduced stringency.

iii Enforcement of Health and Safety Legislation

28 CBI members in industry and commerce ask four things of health and safety inspectors from both Health and Safety Executive and local authorities. They are:

- to promote self regulation;

- to be consistent in procedures and standards;

- to eliminate bureaucratic paperwork; and

- to operate a system that encourages rather than merely penalises employers.

Self Regulation

29 The enforcement authorities needlessly increase compliance costs in industry by frequent visits to firms that have acknowledged high standards of health and safety while apparently ignoring others possibly with lower standards. The CBI therefore recommends the Health and Safety Commission and Executive to accelerate and extend their reviews of the role and procedures of the Inspectorates. The aim of these reviews should be to promote self-regulation in firms with good standards, to enable greater attention to be paid to other firms, to target resources to areas of greatest problems, and to improve the advisory capacity of inspectors throughout industry.

Consistency

30 First and last employers ask inspectors to operate one set of standards. Inconsistency in setting levels leads to confusion, uncertainty and very considerable wasteful expense. Many examples of such inconsistency are on the record and HSE is aware of them. Employers also seek consistency in the attitude and approach of inspectors. Statistics show that local authority inspectors issue a far greater number of Improvement and Prohibition Notices as a proportion of their workload than do HSE Inspectors.

31 Industry is already cooperating with HSE, especially through IACs and NIGs in preparing guidance for both employers and inspectors to be applied across the board and harmonise standards of enforcement. More needs to be done on this front. In addition, the CBI recommends that the HSE should be given responsibility for all professional inspection standards and powers to require the local authority inspectorates and HSE to follow one set of procedures and apply one set of standards. Only a transfer of authority of this sort will make the necessary harmonisation possible.

The Paperwork

32 An irritant for employers is the bureaucratic paperwork associated with notification and/or registration procedures for a variety of purposes, fire prevention, building control, health and safety and so on. Commercial, retail, distribution and factory premises should be exempt from notification requirements unless associated with harmful agents or hazardous practices. Even for these workplaces, notification should be simplified. There should be one set of arrangements for all purposes and that should be simple and totally straightforward.

A New Sort of Guidance

33 More and more in recent years the inspectorates have sought to require employers to apply Notes of Guidance, informal codes of practice and British Standards as a means of demonstrating compliance with the general duties of employers under the HSW Act. The Inspectorates have by these means sought to enforce such guidance through the normal processes of enforcement even to the extent of using such guidance as a basis for prosecution in the courts.

34 This usage has a number of undesirable effects. For example, the Guidance has to be framed, often following tripartite discussion, by lawyers in legal language that in the extreme can be handled by court officials. It thus becomes incomprehensible for many managers and workers and loses its practical, down-to-earth approach.

35 Worse still, the Guidance that is often intended by employers to set aims and standards of the very best practice which they should aspire to achieve over a period as knowledge and resources permit, is seen by the inspectorates for immediate enforcement. Guidance that is designed as a training aid becomes a list of offences. The type of Guidance preferred at present by the Inspectorates does not admit the setting of targets. It is seen not as a means of encouraging employers to do better as and when they can, but as a way of penalising employers when they fail to meet the high standards it propounds. Thus Guidance Notes have become a stick whereas employers believe they would be much more helpful and effective as a carrot.

36 The CBI therefore seeks a new approach to Guidance Notes. They should be seen as wholly voluntary for employers and could thus admit the setting of targets, the prescription of best practices to which employers could be encouraged to aim as resources allow.

iv The Regulation of Hazardous Installations

37 This is not a matter of workplace health and safety, but nevertheless one for which the Health and Safety Commission has responsibility, officials of HSE working closely with colleagues in the Department of Employment. It is a matter where manufacturers' costs of compliance are rising steeply with the implementation of a series of new regulations or codes.

38 Operators of hazardous installations have come under strict scrutiny in recent years and been subjected to a series of new planning, environmental and safety controls. These controls already require the notification of hazardous installations, and will require the survey and periodic resurvey of such installations, the preparation of emergency plans on and off site, information to the public about the hazards and in most cases special planning applications and approval. Site operators must now gear their operations in order to comply with this new area of law.

39 The costs to industry and indeed to society of these new obligations are well-documented and considerable. These costs will bear on numerous small as well as large companies handling hazardous substances and will have a significant effect on their future ability to invest and prosper.

40 A number of suggestions have been made that industry should be subjected to additional and even more extensive controls. The purpose of such further requirements would be to build a comprehensive system out of existing arrangements, expanding it into areas and over substances considered hazardous but not previously covered.

41 The CBI urges the Government to allow industry a breathing space in which to put into operation the new legal duties. Industry's desperate need for an opportunity to absorb the new burden of cost must outweigh the public's wish for a tidy parcel of regulations.

C WAGES COUNCILS

42 The CBI wishes to see a considerable amount of deregulation in the area of Wages Councils. However it would prefer substantial reform to the outright abolition of the whole system. There are some areas of business where employers regard Wages Councils as helpful in achieving good industrial relations and in minimising calls on scarce management resources.

43 The package of reforms recommended by the CBI is as follows:

i Wages Councils should be reviewed case by case in consultation with those employers affected to see which councils should be retained, merged, converted to statutory joint industrial councils, or abolished.

ii For those Wages Councils that remain following the review there should be:

a exemption on request for companies with their own collective bargaining arrangements

b restriction of Councils' remit to setting a single adult hourly pay rate, and related youth rates.

44 This approach would not only achieve deregulation in sectors and companies where employers regarded it as helpful, it would completely deregulate non-pay terms and conditions such as hours and holidays and end the complex rulings which currently cause so much unnecessary work.

D SOCIAL SECURITY

i Pensions

45 In its response to the Government's Special Inquiry into Provision for Retirement the CBI recommended that the Inland Revenue Limits on pensions should be abolished, retaining only a limit on employee contributions allowable for tax relief and a limit on permissible tax-free lump sums. The present limits imposed as a condition of tax approval create administrative problems and often penalise early leavers. Employers find difficulty in explaining the logic behind these restrictions. Cost considerations combined with the modest restriction suggested would be sufficient to prevent abuse of the system.

46 Under present regulations members of occupational pension schemes who wish to make additional provision themselves can only do so with full tax relief by making additional voluntary contributions through their main scheme. The CBI has suggested that this requirement should be removed so that employees could administer their own arrangements in addition to, and separately from, their occupational schemes.

47 The regulations relating to contracted out occupational pension schemes have become unnecessarily complex in the relatively short time since the Social Security Pension Act 1975 came into operation, particularly with the passing of the Health and Social Security Act 1984 which prohibits the practice known as "franking".

48 The practice of introducing over-riding legislation will also add to the administrative burden on pension funds and will make it more difficult for employees to fully understand their schemes. The CBI maintain that the rules of schemes should be complete in themselves and should enable scheme members to establish their benefits without the need to refer to several Acts of Parliament.

49 The Social Security Bill which is now before Parliament contains proposals for a Public Deposit Registry of pension schemes analagous to the Companies Registry. This will only add to costs and the regulation of pension funds without improving security in any way.

ii Statutory Sick Pay

50 The statutory sick pay scheme imposed a considerable administrative burden on employers. It will be recalled that in signifying its support for the scheme in principle, the CBI asked that employers should be fully reimbursed for both the direct and indirect costs. Whilst the CBI has welcomed the Chancellor's decision to remove the liability on employers to pay national insurance contributions on SSP, a significant administrative burden remains. Since the implementation of the scheme the CBI has received a number of complaints about the additional costs employers now have to bear. The SSP scheme has been in operation for a relatively short period and changes to the rules, which impose an extra administrative cost on employers should be kept to the minimum.

Annex 4

DE-REGULATION: PLANNING AND ENVIRONMENTAL MATTERS

1. Avoiding the negative approach

Government should reinforce by every means available their advice DoE Circulars 22/80 and 16/84 that an application for permission may be refused only if there are sound and clear-cut reasons for such refusal.

2. Inflexible administration

(a) Building Regulations

Example (i) A disused industrial building was divided into separate premises for small enterprises. The developer erected a brick partition wall to roof height, and was then required, irrespective of the type of enterprise, to provide special fire insulation extending 1½ metres on both sides of each partition wall.

Example (ii) A small (500 sq ft) unit requiring roller shutters for a doorway 10ft x 10ft had to be built with special heavy foundations and steel frame supporting structure on account of theoretical wind hazards.

Example (iii) A planning consent included a consent laying down a maximum noise level at the boundaries of a site: the applicant demonstrated - at considerable expense - that this was less than that made by the fast-flowing stream on his boundary.

(b) High Requirements

On a redeveloped industrial estate, roads may be inordinately costly because required to full highways standard, with footpaths 2 metres wide on both sides, although pedestrians are unlikely.

3. Over-elaborate and costly legislation

(a) Footpath diversions

Procedures are lengthy and onerous. Often a diversion is required in connection with a development for which planning permission is required, but separate permission has subsequently to be sought for the footpath diversion.

We can quote examples where the footpath complication has already effectively delayed developments for more than two years after planning permission - itself not quickly obtained - was granted.

(b) Listed buildings

1/4 million buildings already are listed, and Government's declared ambition is to double this number.

Owners can find the maintenance of listed buildings - often unsuitable for current needs - a heavy burden. Even if consent is given for demolition (as in one case where the listed building was obstructing the redevelopment of a major works), the delay and associated costs are substantial.

(c) Planning controls over hazardous development

See T 353a 84 (attached, Appendix 4.1)

4. Local legislation superimposed on national

Local Authorities habitually seek to extent or amend national legislation. The CBI particularly objects to provisions which:

(1) are more onerous than those of the Fire Precautions Act and the Building Regulations, and which inhibit the development of new warehouses using modern handling techniques. (Examples in several Private Acts and Bills).

(2) Amend national - and sometimes very recent - law. (e.g. Berkshire's clause reducing from 3 days to 1 the notice to be given under Section 22(2) of the Food Act 1984).

(3) Seek powers of prior approval of the financial standing of a purchaser of property concerned in a Section 52 Agreement. (e.g. Oxfordshire Bill Clause 5(i)(f)).

5. Unnecessary and costly EEC controls

See attached at Appendices 4.2, 4.3, 4.4)

(a) letter 21 July 1983 to House of Commons European Legislation Committee;

(b) statement November 1983 to UN Environment Committee;

(c) statement on Transfrontier Shipment of Wastes.

6. Over-hasty Regulations without consultation

(a) Omission of exception for aviation fuel - see letter 28 July 1980 from Departemnt of Transport (attached App 4.5)

(b) Provision for Marine Nature Reserves in Wildlife and Countryside Act before end of consultation re need for MNRs - evidenced by total lack of designating since.

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Appendix 4.1

T353a 84

PLANNING CONTROL OVER HAZARDOUS DEVELOPMENT (DEPARTMENT OF THE ENVIRONMENT LETTER OF 30 JULY 1984).

CBI Observations

1. We appreciate that the Department is under pressure to close what may be a small loophole in planning control over hazardous development. We believe, however, that proposals for action are premature in the light of the considerable recent increase in the control and advice relating to hazardous installations and in the absence of documented evidence of real problems. In any case the suggestion made in the DoE's letter of 30 July 1984 would not provide, without substantial refinement, a workable solution.

2. The recent additions of control and guidance in this field include:

   - Notification of Installations Handling Hazardous Substances (NIHHS) Regulations 1982;
   - Town and Country Planning General Development (Amendment) Order 1983;
   - Town and Country Planning (Use Classes) (Amendment) Order 1983;
   - DoE Circular 9/84 'Planning Controls over Hazardous Development';
   - EC Directive 82/501/EEC on the Major Accident Hazards of Certain Industrial Activities;
   - Draft HSE Guidance on the Storage of Hazardous Substances.
   - Control of Industrial Major Accident Hazards (CIMAH) Regulations 1984;
   - Notification of Dangerous Occurances Regulations
   - A HSE Guide to the CIMAH Regulations;
   - Classification, Packaging and Labelling of Dangerous Substances 1984;
   - Chemical Industries Association's "Guidelines for Safe Warehousing" 1983;
   - Draft Dangerous Substances (Notification and Marking of Sites Regulations 19

3. With all the reporting and emergency planning mechanisms that these involve it is inconceivable that the local planning authority (LPA) will be unaware of the presence in its area of a hazardous development or of a significant quantity of hazardous material. On the rare occasion that it needs to take

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action in the interests of public safety, it usually has the residual power of revoking or varying the planning permission of the industrial concern. The HSE too has adequate powers of enforcement. Changing the planning regime will offer no extra advantage to people at work or the public in terms of health and safety. What real evidence exists for suggesting it?

4. We urgently need now a period of legislative stability to put all the recent controls properly into operation and to test their effectiveness - not the introduction of further changes.

Notification

5. If possible changes/additions are still envisaged, our first preference would be for premises which are already notified to HSE under NIHHS Regulations also to be notified to the local authority. The controls currently exercised by the Health and Safety Executive should be sufficient in their own right.

Consent

6. The consent procedure envisaged by the Department seems to us to represent a breakaway branch of planning law. It would need careful and complex drafting to avoid problems and ambiguities, in particular -

(a) it would have to be rapid. Swift movement of stock may be crucial to meet a market opportunity. Delays, for example the time taken by a local planning authority to obtain the advice needed to assess the technical merits of providing consent and to act upon it, must be minimal. Provisos to guarantee a speedy system would have to be built into the system. These might include placing an obligation on an LPA to formulate a policy, perhaps documented in local plans, of where such substances may or may not be stored.

(b) Its application must be limited. The legislation must make clear that quantities of scheduled substances below those in the NIHHS schedule are and will remain exempt. The system should not use the - very wide - definitions of the EC directive 82/501/EEC nor be applied to the larger group of substances in the schedule to the CIMAH Regulations. Pipelines should be excluded. A considerable number of hazardous developments already require a specific planning permission - how would these be treated? The permission should be granted for a site rather than a specific building, to avoid fresh applications for transfers between buildings on multi-purpose plants.

(c) It must not be retrospective. If it were it could invite over-zealous LPAs to reconsider planning permission for any existing installation handling hazardous materials. This would not only be unfair to an industrialist who has already committed capital on the basis of the permission granted, but would also create unnecesary uncertainty in the supply and demand of these materials.

(d) It must be applied uniformly by local authorities. Industry must understand and have confidence in the system; and this implies a consistent interpretation, backed by central Government guidance, and proper safeguards for industry such as appeal and compensation arrangements. The system must

Appendix 4.2

Frank W Clark Esq
Clerk to the House of Commons'
European Legislation Committee
46 Parliament Street
LONDON SW1

21 July 1983

Dear Mr Clark,

PROPOSAL FOR A COUNCIL DIRECTIVE ON PROCEDURES FOR HARMONISING THE PROGRAMMES FOR THE REDUCTION AND EVENTUAL ELIMINATION OF POLLUTION CAUSED BY WASTE FROM THE TITANIUM DIOXIDE INDUSTRY (COM(83)189 final, 14 April 1983)

We are pleased to learn that your Committee is taking evidence on the above proposal. In our view the proposal raises important general points of principle and we would ask your Committee to note, in particular, that:

(a) although superficially an environmental measure, it would impart little or no environmental benefit;

(b) it has potential to damage the interests of the European Community as a whole, and

(c) it could harm UK trade in titanium dioxide pigments.

To expand:

(a) Adequate controls, including two specific directives, exist to protect the environment in respect of discharges from the titanium dioxide industry. There is no environmental need for further controls, and the Commission itself provides no such justification in terms of possible harmful effects or inadequacy of current controls. Indeed the proposal frequently refers to prohibition of discharge when elimination of pollution should be the ultimate environmental goal.

(b) High industrial costs (in part to meet existing discharge controls) coupled with a world surplus of capacity in the titanium dioxide industry, have the effect of making operating margins small or indeed non-existent from time to time. Extra costs to the substantial ones already imposed on EEC manufacturers, for example to meet the 1978 EC directive, will inevitably make their products uncompetitive in world markets or result in company losses. Neither consequence is sustainable for long, unless State aid is injected to counter operating losses (which is contrary to UK's current interpretation of the

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'polluter pays' principle). Taken to its logical conclusion, the EEC titanium dioxide industry could lose its markets, inside and outside the Community, with consequential decline in its operations - a situation totally against the well-being of the Common Market.

(c) In addition, the proposed directive aims to equalise costs between industries in the Member States by imposing uniform discharge limits. Since environmental conditions and industrial (labour, transport etc) costs vary so much, between Member States, the effect of equalising on an EEC basis a single parameter is to distort competition by ruling out a country's natural advantage but leaving its disadvantages intact. This is contrary to the intention, in Article 1, to improve the conditions of competition in the industry.

Overall, we consider it imperative that the proposal should be subjected to the fullest cost/benefit appraisal, including an evaluation of the implications for the Community of lost exports and potential imports. This would be consistent with the objectives of the Community's environmental action programme, to integrate the environmental dimension with other policies.

Yours sincerely,

Dr E F Thairs
Secretary
CBI Environmental and Technical Legislation Committee

not be capable of abuse by the whims of local politics.

Even if these problems were adequately resolved, a number of subsidiary questions arise e.g. -

- would the LPA have to keep separate records (registers etc)?

- would the application be of a type requiring notification under Sections 26 and 27 of the 1971 Act because if so another special set of regulations would be required?

- what would be the entitlement to compensation when a consent is refulsed for hazardous materials on premises for which no planning permission is currently required?

We would appreciate the Department's views.

Definition of Development

7. Whilst we agree that it is not appropriate to change at this time the definition of "development" in Section 22 of the 1971 Act, we would be grateful if the Department could explain in more detail why it believes complex provisions would be required to ensure that planning permission were not required each time a hazardous substance was moved into or out of premises. It seems to us that sub-section 3, dealing with the avoidance of doubt, could be extended without undue difficulty, by, for example

"(c) the use of any land or building involves a material change of use of such land or building if any part thereof is used for the processing or storage of hazardous substances of the type and quantities specified in regulations approved by the Secretary of State under the Health and Safety at Work etc Act 1974".

Conclusion

We do not believe another change in the control of hazardous substances is justified at the present time.

Appendix 4.3 : Introductory statement by R I Lindsell (CBI) for UNICE at meeting with EC Commission and Greek Minister (President of EC Council) 1983

UNICE 'ENLARGED' ENVIRONMENT COMMITTEE MEETING, NOVEMBER 1983

Introduction of item on 'Hazardous Waste'

1. UNICE re-affirms its support for sensible controls over hazardous wastes, in particular to ensure that final disposal of unwanted materials takes place

   - as soon as practicable

   - in a suitable place

   - in a safe manner

   - in the most economic, environmentally acceptable way.

   Accordingly it welcomed EEC directives setting up a general system of control over wastes (75/442/EEC) and specific additional controls over toxic and dangerous wastes (78/319/EEC). It maintains that, with minor improvement, the EEC legislative framework is satisfactory with the emphasis rightly placed on ensuring correct final disposal.

2. Variability of wastes makes precise definition and analytical control standards impossible; absence of precision highlights the need for flexibility in the operation of the controls rather than defects in the procedures. Control authorities and producers and handlers of waste already have many years of experience and knowledge to guide them in circumstances where definitions cannot be precise. UNICE is disappointed that several Member States have been dilatory in achieving alignment of their systems with the existing Community framework, often using difficulty of definition as the excuse for inaction. This results in calls for additional Community legislation whereas the true need is for proper implementation and enforcement of what already exists.

3. However, one area where the current system has been shown to be defective is its lack of visibility - its failure to gain the public's confidence that waste is being fully and properly regulated. UNICE therefore accepted the desirability of a further EC proposal to set up a simple notification system whereby waste could be visibly traced from its point of production to its final resting place. It welcomed the raison d'etre of the proposal now under consideration.

4. Unfortunately the proposal which should have been simple, designed to introduce a degree of transparency, has become the vehicle for a range of other issues which, though relevant to waste, are more general in character and should be studied in separate contexts. Insurance, labelling, licensing of contractors etc all fall within this category of superfluous requirements. They are suggested for political reasons for they cannot be supported by evidence in practice of the problems they purport to solve. Danger from hazardous waste is virtually eliminated with proper application and enforcement of existing controls.

Appendix 4.4: Introductory Statement by E F Thairs for UNICE at meeting with President of EC Council, Mme. Bouchardeau, 1984

TRANFRONTIER SHIPMENT OF WASTES

1. In 1975 the European Community introduced a directive on waste and in 1978 supplemented it with a directive specifically on toxic and dangerous wastes. All but Greece and Ireland have ratified the ADR (European Agreement concerning the international carriage of dangerous goods by road). UNICE has supported these measures which provide a reasonably full set of European rules ensuring adequate safety in the transport and disposal of wastes and preserving too the principle of free movement of materials.

2. What we now need is -

   first, full implementation and enforcement of the regulations which exist;

   second, a documentation system so people can see what is going on and that the administrative/legal systems can cope.

   UNICE supports both these aims, and the present EC proposal in so far as it provides a documentation system which should inject a much-needed degree of public confidence into a trade which by and large has been carried out responsibly.

3. We are disappointed by attempts by the EC Commission and by Member States to use the proposal as a vehicle for advancing extra legal provisions (strict liability, insurance etc) over-and-above those needed now. The result is delay and the sort of uncertainty industry doesn't need. We hope that these surplus provisions can be removed - maybe under a promise to look at them again in a new and separate context - and a simple documentation system adopted soon. We still have reservations about the documentation system - especially its coverage of recyclable materials. We accept too that there may be other issues specific to waste e.g. definition of toxic and dangerous wastes which could be addressed at a later stage; but this requires time.

4. There is a fallacy which supposes that those who are insensitive to current controls and public opinion can be brought to order by imposing more requirements on them. The reality is that they will have more law to sidestep whilst the responsible sector - the vast majority of industry - will have added and costly burdens to accommodate.

5. Another major objection by industry to the Commission's proposal - whether a directive or, to our intense dislike, a regulation - is its coverage of secondary and substitute raw materials. My country - the UK - has a reclamation industry with a turnover last year of £2.5 billion.

   Not much is hazardous waste and not much crosses borders - the UK trade in secondary raw materials with the rest of the EEC was worth £224 million in 1982 - but economically it is still significant and environmentally it is very important indeed. The EC proposal threatens this business, by adding to the costs and workload of export etc. procedures, and indeed runs contrary to the Community's policy of encouraging reclamation and recovery wherever possible (thereby conserving scarce resources). UNICE cannot accept this feature of the proposal.

6. To conclude, UNICE wants to see the current proposal substantially reduced in scope and in demand, and the existing EC legislation given the opportunity to prove itself in practice. Otherwise it fears that we will simply be adding demand to demand, unfairly and unnecessarily penalizing those who responsibly try to satisfy them and possibly leading to the adoption of inappropriate disposal options.

September 1983

Department of Transport
Room C18/06
2 Marsham Street London SW1P 3EB
Telex 22801 Direct line 01-212 5190
Switchboard 01-212 3434

APPENDIX 4.5

28 July 1980

Dear Sir

THE MOTOR FUELS (LEAD CONTENT OF PETROL) REGULATIONS 1976

As you know, aviation fuel is currently exempt from the rules governing the lead content of petrol. Unfortunately when the regulations were made we overlooked the need to specify at the same time that aviation fuel could also be sold and used for the testing of fire extinguishants for the protection of aircraft. As a result manufacturers who need to test their equipment have not legally been able to obtain the fuel to do so.

The Minister has now therefore signed an Instrument of exemption to deal with this anomaly. A copy is enclosed for your information.

Yours faithfully

Eugenie Flanagan

MRS E C FLANAGAN
Vehicle Standards & Engineering Division

ANNEX 5 - TAXATION

General

The comments in this paper are mostly derived from views expressed by CBI members. The timetable of consultation has not permitted the consideration of a compendium paper by the CBI's Taxation Committee and the comments therefore should be treated as preliminary and tentative. Fuller and more comprehensive treatment is impracticable without more time in which to examine the issues. Current studies by our Tax Reform Working Party may also throw up new ideas which we will want to consider in due course.

Volume and Quality of Fiscal Legislation

A brief glance at the ever increasing bulk of the legislation on taxation raises a number of important issues. There has been addition of layer upon layer of fiscal legislation - last year's Finance Bill set records - without a rigorous examination of what is being done and how best to fit it into existing rules.

As the CBI made clear in its response to the Green Paper on Corporation Tax much of the present complexity stems from archaic tax rules which have little or no relevance to modern business conditions.

In addition, the cramming of fiscal measures into the strait-jacket of the annual Budget - Finance Bill programme leaves little or no time for effective scrutiny of the measures being considered. More attention at the pre-enactment stage, whether by greater use of consultation on proposals, consideration of draft clauses, or specialist expert committees-Parliamentary or otherwise - might well improve the quality of the end product. Further thoughts on the inadequacy of the present system are set out in our proposals for a Technical Taxation Bill attached. We remain concerned that the list of difficulties to which we draw attention in our Technical Budget Representations each year seems to increase in total with little sign of diminution due, inpart at least, to pressure on legislative space.

Tax Law is clearly an area where the fullest early discussion with business can pay handsome dividends. This applies not only to laws which need to be enacted but also to the various forms of subordinate legislation and rule-making.

A fresh approach to the whole process of fiscal legislation might enable the draftsman to consider ways of making tax law clearer and shorter. Codification and consolidation are matters which justify further examination in this context.

Administration

The size of the as yet incomplete report of the Keith Committee on the enforcement powers of the Revenue Departments has highlighted just how many anachronisms exist as a result of the layer upon layer method of legislation. Good relations between taxpayers and officials are important in the efficient running of the tax gathering system. Over zealous pursuit of the last penny and use of complex rules in case there might possibly be some avoidance run counter to the thrust of a deregulation exercise.

Following the Keith Committee's report proposals are being put forward for legislation which tackles Customs & Excise matters in 1985 leaving Inland Revenue matters to be dealt with in 1986. We question whether a proper decision on the best possible way forward can be made without the whole package being available. Some of our members would go further and question the need for two separate Revenue Departments.

Perhaps too there should be a further look at the protection of confidential information supplied to non Revenue Departments from use by the Revenue Departments either now or in the future as a result of the Keith proposals.

Some of our members would welcome publication of more guidelines by the Revenue Departments or at least greater insight into their interpretation of the law.

Others have mentioned the need for improved availability of fiscal publications from HMSO. Delays relating to this year's Finance Bill were most unfortunate and steps should be taken to prevent a recurrence.

Points Specific to the Inland Revenue

A number of comments received by us are specific to each of the Revenue Departments. For the Inland Revenue concern has been expressed over:

a The desirability of improved communications between different districts and offices so that the same information is not sought twice over.

b The costs to business of running the present perhaps too highly sophisticated system of PAYE. Simplification could be made to year-end rules and returns such as forms PIID, and greater use of payslips in lieu of forms P60 and perhaps P14. The introduction of computerisation may be a good time to review the system perhaps with an eye on foreign, say US, practice.

c The opportunity provided by computerisation to take a fresh look at the relationship between the tax and social security systems.

d The case for consolidating the rules relating to Schedule E, benefits in kind and PAYE either separately or as part of another Taxes Act consolidation.

e The attitude found in some quarters that any flexible approach to working arrangements must involve an element of cheating. This is not conducive to greater use of part-timers and home-workers and genuine self-employment.

f The continued existence of Section 482 ICTA, following the abolition of exchange control a matter we now understand to be under Ministerial scrutiny.

g The mechanics of the £8,500 threshold for benefits in kind.

h The powers contained in Section 38 Schedule 15 FA 1973 as modified in Sections 81 and Section 124 (4) FA 1984 to impose the tax burdens of defaulting sub-contractors on innocent holders of petroleum licences.

Points Specific to Customs & Excise

a A rather general point made to us on VAT asks whether after eleven or so years of operation there is not scope for simplification and an analysis of administrative and compliance burdens. Too fine a pursuit of detail may be counterproductive.

b Where it is intended to implement changes business should be given time for full consultation. Examples of difficulties which spring to mind relate to last year's partial exemption rule changes and, currently, VAT on car expenses, which in original form would entail onerous record keeping.

c Some of our members feel that improvements could be made to the terms in which the rules are set out in statutes, notices and the leaflets issued by Customs.

d The requirement of guarantees in relation to VAT on imports has also been questioned and other aspects of this have been mentioned in responses on the Customs procedures side.

Conclusion

This paper represents no more than the tip of the iceberg in relation to possible taxation de-regulation. We would welcome the opportunity to consider the topic more fully and would be happy to supply examples of recent submissions on detailed subjects where we have questioned the burden of compliance.

Annex 6: Customs and Excise: Trade issues

1 Areas Where Reduction in Compliance Costs Would Make a Difference:-

(a) A reduction in the volume and complexity of export paperwork

(b) Reduction or simplification of IBAP procedures.

(c) Simplification of Community transit procedures, particularly in relation to T5's and IBAP scheduling.

2 Main Obstacles to Cost Reduction:-

(a) Vat on Imports - according to a number of members, VAT on imports has proved to be a burden on many traders, particularly the procedures relating to deferred payments and guarantees.

(b) Lack of flexibility in accepting information direct from commercial documents.

(c) Political moves which disregard commercial interests (removal of PVA)

(d) Simple concepts developed into complicated procedures (SAD).

(e) Inconsistent interpretation of regulations in different EEC states.

Cont'd/...

(f) Lack of effective trade consultation preceding implementation of new procedures (October 1981).

(g) Current requirement for absolute accuracy i.e. no differentiation between genuine mistakes and deliberate fraud.

(h) Current drive for reduction in staffing often disregarding the needs of traders.

(i) IPR - EEC is investigating to put an end to the protective test. Why have Departments of Trade and Industry now decided to more rigorously enforce the protective test?

(j) Period Entry - Imports - HMC+E currently trying to promote period entry yet have just decided that all traders must present form C305 each month, even for NIL returns (the info to complete the C305 comes from local C+E).

3 What Areas of Regulation Should be Amended:-

(a) Allowance for wide ranging trade consultation particularly on practicalities before introduction of new procedures.

(b) Moves towards use of traders commercial records/ documents rather than separate customs records/ documents. ie. Customs refund control register/traders order files. C44B/Greenline SSN.

(c) Genuine moves towards simplification i.e original SAD concept.

(d) EEC wide commitment to cooperation with COMPROS on alignment and simplification of forms.

(d) Return Goods Relief - CTC 402 is for UK returned goods. C+E have stated that when goods are owned by the importer at time of import, relief will be allowed from VAT. This is not happening. Port Customs are asking for VAT to be deferred (paid) + unnecessary form C1314 completed, thereby negating the relief.

(f) Duty Reliefs - there are many duty (external) reliefs. Now that import VAT is a 'duty', there are very few reliefs which extend to both types of payable duty.

4 How to Monitor and Control Costs:-

(a) Increased use of computers by Custom with flexibility to allow input from a number of different sources.

(b) Spot checks only on reliable companies with some error tolerance but high penalties for deliberate fraud or culpable negligence.

(c) Continued wide ranging trade consultation.

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Director-General
Sir Terence Beckett CBE

Secretary
Denis Jackson

CBI

Annex 7: Standards, Weights and Measures

G Riggs Esq
Department of Trade and Industry
Room 241
Santuary Buildings
Great Smith Street
London
SW1

14 December 1984

Dear Mr Riggs

DEREGULATION EXERCISE

I attach for your interest a copy of our response to the Committee currently reviewing the provisions and implementation of the Weights and Measures Act.

The general view on this review seems to be that it has been conducted with an unduly low profile, which has caused concern to some CBI members who are users rather than manufacturers of (industrial) metrology equipment. Companies with several geographically distinct operating divisions particularly found the consultation and flow of information, on the part of the DTI, less than satisfactory.

On the subjects of Health and Safety, and Consumer and Fair Trading Legislation, we remain in full support of the "reference to standards" approach, which HMG is now adopting in both areas. This principle is however not fully accepted in all quarters yet, and the tendency to hedge around the principle in such a way that reference to standards remains only possible in theory, not practice should be strenuously guarded against.

The European Community is also building on the "reference to standards" principle, to help speed up the removal of technical barriers to trade. We welcome the efforts which are being made at European level, and trust that the Commission will actively facilitate this work.

Yours sincerely

Anne C Humberstone
Secretary, Production Committee

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B 292 84

THE CBI RESPONSE TO THE METROLOGY REVIEW COMMITTEE

INTRODUCTION

1 On being notified earlier this year that the Department of Trade and Industry had set up a Committee (above) to review the metrological control of weighing or measuring equipment for use for trade, the CBI consulted its membership on the basis of the information supplied, through CBI News and by some direct correspondence.

2 The following comments on the Review in general represent their views as expressed to us, verbally and in writing; some specific technical issues raised with us, which the CBI is not qualified to interpret, are listed separately.

GENERAL COMMENTS

3 The CBI's consultation was carried out on the basis of information supplied to us, namely that advances in technology necessitated the Review, its terms of reference, and the composition of the Committee itself. Later we were able to advise our members that two sub-committees would be dealing with aspects of direct relevance to users, but on which we had no further information.

The responses indicated a general dissatisfaction with the adequacy of the background information, in that members felt they had "nothing to get their teeth into".

4 In spite of the CBI's strong expression of interest in the Review, in the absence of a nominated representative on the Committee, we were unable to supply interested members with any further information on the Review's progress. Members felt that this represented shortcomings in the DTI's consultative procedures in this instance.

5 Members who fell into the category of users of industrial metrology equipment, rather than others, felt that their very diverse interests were inadequately represented on the Committee itself, and did not feel that the consultative procedure had mitigated this to any extent. Some major users among the respondents expressed the view that the DTI should have informed, and consulted them direct, as we understood it planned to do with all UK companies who had submitted equipment to NWML for pattern examination within the last few years.

6 We understand the difficulties inherent in consulting such organisations, compounded by the existence in many cases of geographically distinct operating divisions, and it was our wish to facilitate this which prompted our seeking representation on the Committee.

7 User members felt generally at a disadvantage to manufacturer members in knowing what was going on.

8 Not unexpectedly, the points made by manufacturer and user members were often markedly different, and indeed many in the user category were quite unsure whether or not the Review, or any legislative/implementing amendments it would eventually propose, would impact on their activities. Again, we were unable to supply them with any helpful information.

9 Both manufacturers and users of equipment commented on the desirability of self-certification/approvals by the manufacturers. Manufacturers felt that this area offered the opportunity to speed up procedures in the short term - it was suggested that those companies who have significant investment in R&D and test equipment should be able to submit test data to the Weights and Measures Authority, who should acccept it with occasional audit of facilities, thus avoiding the additional costs of further testing by the Authority. The only aspect of this placing of greater responsibility on the manufacturers which concerned users was that this should not result in additional costs for the purchasers, particularly those who themselves have a long history of close Governmental control in their weighing/measuring activities and follow Codes of Practice which involve checking weighing/measuring devices regularly against standards, on site.

10 Some members compared weights and measures approvals procedures and related costs unfavourably with those of other countries, and cited several examples where cost or time delays were experienced when attempting to introduce new weighing/measuring techniques into their business operations. Sometimes the cases involved a device manufactured and approved overseas, but by no means always.

11 It was also emphasised that "approval" did not necessarily mean that a device was suitable for use with all products, and that the purchaser had always to satisfy himself on this point.

12 It was also emphasised that legislation and approvals, certification procedures etc had perhaps been too much based on retail practices, and that they should be updated to cater fully for, and take continuing advantage of technological developments in industrial high speed weighing and packaging, and in monitoring packed weights for legal control purposes.

13 It was thus felt that assurance of the accuracy and precision of metrological weighing and measuring equipment utilising microprocessor and computer techniques should be accommodated in the approach to equipment design specification, rather than be left to the more traditional approach of performance checking that is less adaptable to appraising modern equipment and likely future derivatives of it.

14 With the exception of the small number of technical points, to which earlier reference is made, members at this juncture generally felt that they would be better placed to comment when the Committee produces its report at the end of the year. It was felt that this would pose rather more specific questions on which they would be able to make comments to the point.

15 For example, one respondent mentioned to us the possibility of a new extra body to regulate suppliers and repairers, with a statutory duty to consult with and involve suppliers and consumers in the future workings of metrological control. More information is needed however on such proposals, before any meaningful comments can be made.

16 Technical criteria used by the Authority are liable to change at very short notice; it has been suggested that technical criteria, like any other form of restriction, guidance or legal enactment should have a notification period of at least 3 months. It is possible that some manufacturers may not learn immediately of these changes through the Trade Associations, particularly if they are not members. This, together with the problem of the amount of time spent waiting in the queue, can lead to sales opportunities being lost.

TECHNICAL POINTS

17 Industrial measuring devices must be able to maintain accuracy under non-steady state conditions, such as dusty atmospheres, vibration of temperature change. Load cells in the past were affected by temperature but the situation has improved with later products. Microelectronics applied to strain gauges are very susceptible to situations where the actual weighing element being sought can be overtaken by sheer temperature changes occurring within the structure incorporating the strain gauge so that the relationships conflict.

18 Any measuring device or equipment used in British Standard tests should itself be made to a single Standard. The need for this is self-evident as any departures from Standard quality and dimension of equipment for measuring in an arbitrary test situation is a fundamental shift from the Standard conditions. It is not satisfactory to regard small differences as not significant.

19 Considerable delays in commissioning of plant have been experienced through the use of microelectronics circuits which have not been fully screened from stray sources. Insufficiently smooth power sources have also been troublesome.

20 It would lessen cost and complexity if only those parts of a weighing/packaging system which affect weighing accuracy were identified and hence certified.

21 A variety of bespoke systems can be made up from tried and tested modules, thus keeping costs down. Special requirements may frequently be catered for by variation of a module rather than the whole system. For industrial use a form of pattern approval for modular systems is justified.

22 Where makers have in fact offered their equipment within particular specified limits, industrial users have been satisfied with the accuracy of weighings delivered.

CONCLUSION

23 The CBI is anxious to ensure that the views of manufacturing industry, which we understand represents the majority of customers for weighing and measuring equipment in the UK are taken fully into account, as we understand the Review Committee will be proposing changes to the current legislation which could significantly affect this large sector of the user market for such equipment.

24 Of all the interests within CBI membership, this group has indicated to us significant concern on this point; other interest groups seem generally more confident that their viewpoints will, and are being taken into account as this Review progresses.

25 We look forward with interest to the opportunity of studying and commenting upon the Committee's Report and Recommendations.

Annex 8: Statistics

The main points raised in discussion at the Statistics Working Party were:

- unlike many other government requirements, co-operation in statistical inquiries was not just a burden on business, because firms did get some return in the form of published statistics. Members agreed that companies did not mind filling in forms if the forms were well-designed and the results were useful to the firms as well as to government;

- companies could be allowed to supply information in a form that was convenient to them. This would be particularly useful where computers could be used to provide the required statistics.

Con PO1: Small Finds Pt 5

6.93

CC(O)

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

FOREIGN SECRETARY

DWB 19/12

VAT EXEMPTION LIMIT

- attached

Thank you for your minute of 7 December suggesting a couple of amendments to the proposed draft letter to the Commission. These have been taken on board in the revised draft attached.

2. The intention is to send both the reply to the Commission and my personal follow-up letter to Christopher Tugendhat, before he leaves Brussels. This will enable him to give a steer to his successor on this issue. We now have little time to meet this deadline, and I should be grateful if UKREP could let my Office know as soon as Sir Michael Butler has sent the formal reply, so that I can send my letter to Christopher without further delay.

3. I am copying this letter to the Prime Minister, members of OD(E), the Attorney General, the Solicitor General and Sir Robert Armstrong.

N.L.

19 December 1984

DRAFT LETTER FROM UK PERMANENT REPRESENTATIVE TO THE EC TO COMMISSIONER TUGENDHAT

VALUE ADDED TAX: REGISTRATION EXEMPTION LIMIT

I have the honour to refer to your letter of 4 September addressed to the Secretary of State for Foreign and Commonwealth Affairs in which you record the Commission's view that the limit of £18,700 currently applied to the exemption from registration for value added tax in the United Kingdom contravenes Article 24 of the Sixth Council Directive on VAT.

Before dealing with the purely legal arguments set out in your letter, it is important to recall the negotiations which led to the adoption of the Directive, and to emphasise the political and practical consequences of applying the Commission's interpretation of Article 24.

The purpose of the exemption limit is to exclude from the tax those small businesses who would have the greatest difficulty in complying with its legal requirements, and whose control would require an expenditure of resources by the fiscal authorities quite disproportionate to the revenue involved. Throughout the protracted negotiations on the draft Sixth Directive, the United Kingdom made it clear that it was of the utmost importance to the efficient administration of the tax, and to its public and political acceptability, that the Government should remain free to increase the exemption limit from time to time up to the maximum needed to maintain the real value of the original limit of £5,000 (which applied at the beginning of the tax on 1 April 1973). It was only on the understanding that Article 24 would not restrict

the right to revalorise the limit in full that the United Kingdom was able to accept the Article and, indeed, the Directive as a whole. The interpretation which the United Kingdom intended to adopt was made perfectly clear at the meeting of COREPER on 4 February 1976, and although the Commission's representative on that occasion stated that it was "more desirable" that the base date for revalorisation should be the date on which the Directive entered into force, it is significant that he neither disputed the United Kingdom's interpretation nor proposed an alternative text to put the matter beyond doubt. Had there been any suggestion that the Commission would ultimately seek to impose its views by means of infraction proceedings, the United Kingdom might well have decided to revalorise the limit shortly before the Directive came into force on 1 January 1978, a course of action which would have been entirely consistent with the view now adopted by the Commission.

The Commission was, at the very least, content to allow an ambiguity to remain in the text of Article 24, and it is in the view of the United Kingdom morally and politically inadmissible for the Commission to attempt to exploit that ambiguity at this late stage without demonstrating that there are overriding grounds of Community policy for interfering with the system which has hitherto operated without challenge since 1 January 1978.

Reducing the limit from £18,700 to £14,110 in accordance with the Commission's demand would have unacceptable consequences for the administration of the tax in the United Kingdom. An estimated additional 174,000 businesses would be required to register, and a further 600 VAT officers would have to be recruited to maintain present standards of control. The marginal cost of collection of the tax in respect of these businesses would be excessive in relation to the likely yield.

Small business interests in the United Kingdom would rightly see the change as running counter to the declared policies of successive United Kingdom Governments and of the Community itself, to encourage the birth and expansion of small businesses as an essential ingredient in the effort to overcome high levels of unemployment. The effect of the administrative burden of accounting for VAT on those small businesses who would be required to register because of the change would be disproportionately high when compared with the position of their larger registered competitors. The weight of this burden on small businesses, which you recognised in your speech on behalf of the Commission to the Congress of the Confédération Fiscale Européene at Aachen on 30 September 1982, would be particularly onerous for vulnerable new businesses, but would also have a restrictive effect on the expansion of a sector which has great growth potential. The view that small businesses are an important factor in job creation, and that reductions in the tax burden on employment and enterprise should be a leading element in the strategy to strengthen economic recovery, are both points made in the Commission's Annual Economic Report (COM(84)587 final), which was warmly endorsed at the Dublin European Council.

The United Kingdom is not aware that a reduction in the exemption limit would produce any tangible benefits at a Community level. The present exemption has no effect on the United Kingdom's VAT own resources contribution, and causes no significant distortion in intra-Community trade. In these circumstances, the current pressure to reduce the limit appears to my authorities to be unnecessary and likely to hinder rather than to advance the prospects for further fiscal harmonisation.

The United Kingdom rejects the legal arguments put forward in your letter of 4 September against its interpretation of Article 24. It is not clear from earlier correspondence whether the Commission believes that the base date for revalorisation of the limit should

be 17 May 1977, the date on which the Directive was adopted by the Council, 1 January 1978, the date on which it came into force in the United Kingdom, or 1 January 1979, the date on which it finally came into force in all Member States. The United Kingdom sees nothing in the text of Article 24 to require the adoption of any of these dates in preference to one in 1973, which, for the reasons explained in earlier correspondence, is more consistent with the concept of maintaining the real value of the original limit. The reference in Article 24 to the "date on which this Directive comes into effect" relates clearly and specifically to the conversion rate for the 5,000 ECU threshold which determines whether or not an individual Member State is entitled to revalorise in accordance with the Article. It has no relevance to the determination of the base date for revalorisation itself.

The United Kingdom is therefore unable to accept the Commission's contention that it is in breach of its Community obligations by maintaining the real value of the VAT exemption limit in force in 1973. My Government hopes that in the light of the considerations set out in this letter the Commission will not feel it necessary to pursue the matter further.

CONFIDENTIAL

Ate 881
S/Zaba
cc J. Redwood

10 DOWNING STREET

12 December 1984

From the Private Secretary

LOAN GUARANTEE SCHEME

The Prime Minister has seen and is content with the outcome of the discussions between the Department of Trade and Industry and the Treasury on the extension and new terms of the Loan Guarantee Scheme. She is content for an early announcement to be made.

I am copying this letter to Private Secretaries to Members of E(A) and to Richard Hatfield (Cabinet Office).

Andrew Turnbull

Callum McCarthy, Esq.,
Department of Trade and Industry

CONFIDENTIAL

KM.

10 DOWNING STREET

From the Private Secretary (1)

Prime Minister

DTI and Treasury have agreed on the terms for an extension of the LGS for 1985.

- a ceiling of £50 million
- 70 per cent guarantee
- 5 per cent premium
- measures to prevent exploitation of the scheme
- better reporting and measuring.

The costs of the three years are estimated at £6·5 million.

The only unresolved question is how any losses over £6·5 million are to be financed. Chancellor has made no promises but agreed to look 'sympathetically' at any proposals for extra money.

DTI propose to announce extension in next few days.

Content?

Yes MT

14/12

hle

VSC

cc. Mr Chivers.
Cabe Off.

10 DOWNING STREET

THE PRIME MINISTER

11 December 1984

Dear Sir Terence.

Thank you for your letter of 5 December on the Government's scrutiny of administrative and legislative burdens. I am grateful for your offer of help.

The original plan was that the seven Departmental scrutinies should report by 21 December, and that a central report should then be prepared by 25 January.

The seven Departmental scrutinies are now well advanced, and to maintain a sense of urgency I should like to stick to the plan that they report before Christmas. But to take advantage of your offer I have instructed that they should not be regarded as the last word on the subject and that the central study team, under David Trippier's guidance, should be given an extra two weeks to prepare its wider report on the issues. This will enable them to take account of any general points in material submitted by the CBI up to 18 January.

Subsequent ideas can be taken on board in the follow-up to the scrutiny but it would be better if you could get them to us by 18 January.

Yours sincerely

Margaret Thatcher

Sir Terence Beckett, CBE.

ECA

CONFIDENTIAL

CCNO

DEPARTMENT OF TRADE AND INDUSTRY
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PS/ Secretary of State for Trade and Industry

10 December 1984

Miss M O'Mara
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

Dear Margaret,

LOAN GUARANTEE SCHEME

Thank you for your letter of 29 November setting out the Chancellor's views on my Secretary of State's proposals for the Loan Guarantee Scheme.

2 My Secretary of State is content with the suggestions the Chancellor makes for the terms of the announcement of the extended Scheme. He agrees with the Chancellor on the importance of the £50 million ceiling. He is, however, disappointed that the Chancellor is not prepared to make any commitment on use of the public expenditure reserve for any losses above the levels for the which we have been able to find offsetting savings. The Secretary of State has had to make what are very difficult expenditure decisions in order to accommodate this extension, based on realistic assessments of the failure rate. He accepts that this might be left, and looked at, in the light of further experience of the scheme; but he wishes to put on record that he could not contemplate further offsetting savings beyond those already agreed.

3 It is also disappointing that it does not now appear possible to make any reference to possible extension of the coverage of the Business Expansion Scheme. With the LGS being extended for only one year there is a danger that we shall be left with little in the way of policies to cover the small firms finance gap which exists at the bottom end of the market. My Secretary of State would welcome the involvement of DTI officials in discussions of ways of dealing with this problem.

4 Subject to any further comments from other recipients to your

JH1BRH

CONFIDENTIAL

letter, we will arrange for the announcement of the LGS extension to be made in the terms agreed as soon as possible.

5 I am sending copies of this letter to Andrew Turnbull (No 10), the Private Secretaries to the other members of E(A) and to Richard Hatfield in the Cabinet Office.

Yours ever,

Ruth

RUTH THOMPSON
Private Secretary

JH1BRH

Econ PO1: Small Firms : Pt 5.

GR pl type.

1. Mr Beesley
2. Mr Turnbull

I agree FJ 10/xii

cc Sir Robin Ibbs o/r
Mr Warry

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

Sir Terence Beckett wrote on 5 December asking for more time (unspecified) for the CBI to submit evidence to this Scrutiny.

2. The present timetable is:

- 7 Departmental scrutinies (IR, C&E, DOE, DTI, HO, DE and DHSS) to report by 21 December.

- Central report by 25 January '85

3. It would be a mistake to hold up the Departmental reports. Better to say that they will be regarded as provisional, and allow the central study team - Mr Brecknell (DTI) and myself - an extra two weeks to improve on them.

4. The CBI could then be offered until 18 January to submit their evidence. I would recommend against a longer extension, which would lose the urgency of the scrutiny.

5. I attach a draft letter which has been agreed with Mr Brecknell. You will want to send blind copies to the Chancellor of the Exchequer, the Home Secretary, the Secretaries of State for Employment, the Environment, Health and Social Services and Trade and Industry, the Minister without Portfolio and Mr. David Trippier.

Kit Chivers
10 December 1984

CCNO

FCD(1)
cc PS
PS/Mr. Rifkind
Mr. Renwick
@ 7/12

FCS/84/321

CHANCELLOR OF THE EXCHEQUER

VAT Exemption Limit

Will request if reqd.

1. Thank you for your minute of 26 November enclosing a revised draft reply to the Commission, and a draft personal letter to Christopher Tugendhat. Taken together they make a very strong case. The quotation from Christopher Tugendhat's letter to John Purvis MEP, is particularly telling. I have one amendment to propose to the draft letter to the Commission (see attachment).

2. I wonder if we might also quote back at the Commission the passage in its Annual Economic Report - which was warmly endorsed at the Dublin European Council - which said that:

> "reductions in the tax burden on employment and enterprise .... should now be a leading component of a strategy to strengthen European economic recovery" (COM(84)587 final, p 34).

This could be related to the references elsewhere in the report to the sharp rise in the numbers of new firms in the UK, and to evidence that small businesses have now become an important factor in job creation (p 105).

3. As regards the suggestion that your letter might raise the possibility of re-examining the policy implications of the Directive itself, I agree that it makes sense to keep this point in reserve until we know how Christopher and the Commission react to your letters and whether they are prepared to drop the case.

/4.

4. I am sending copies of this minute to the Prime Minister, members of OD(E), the Attorney General, the Solicitor General and Sir Robert Armstrong.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
7 December 1984

A N N E X

Paragraph 7 of the revised draft refers to interference in the United Kingdom's internal taxation policy. This might lead the Commission to focus on issues of competence and national sovereignty, instead of concentrating on the practical force of our case. Our point would be sufficiently made if the sentence were amended to read:

> "In these circumstances, the current pressure to reduce the limit appears to my authorities to be unnecessary, and likely to hinder rather than advance the prospects for further fiscal harmonisation."

VAT?

Sir Terence BECKETT 14/12

Ack'd 7/12.

10 DOWNING STREET

From the Private Secretary

MR BEESLEY
EFFICIENCY UNIT

Scrutiny of Administrative and Legislative Burdens

You agreed to provide a draft reply to Sir Terence Beckett's letter to the Prime Minister, a copy of which is attached.

I am copying this minute to Mr. Peretz (HM Treasury) and Mr. Madden (Mr. Trippier's office, DTI).

Andrew Turnbull

7 December 1984

D10.

Confederation of British Industry
Centre Point
103 New Oxford Street
London WC1A 1DU
Telephone 01-379 7400
Telex 21332

From
Sir Terence Beckett CBE
Director-General

CC NO.

CBI

The Rt Hon Margaret Thatcher MP
The Prime Minister
10 Downing Street
London
SW1

5 December 1984

CF
PPS.
R6

Dear Prime Minister,

Scrutiny of Administrative and Legislative Burdens

We were delighted to hear that you had instituted a scrutiny of the administrative and legislative burdens placed on business. The impact of regulation on business, and in particular on new and small firms, is an issue of great importance, not least in the context of job creation.

We appreciate your desire to get something done quickly and are doing all we can to feed ideas and examples in to your Scrutiny Team by their deadline of 21 December.

Our membership consultations have shown just what a rich field for change this is. We are most anxious that the initiative is taken forward after this first scrutiny, broadening out to consideration of the problems of larger firms, and to sector specific issues. In this context many of the sectoral trade associations amongst our members have told us they would greatly welome the opportunity to contribute their experiences, but this will take a little longer. And we would all appreciate the time to go more deeply into some of the points our first considerations have identified.

Can I therefore urge you to continue this important work in the New Year, and offer you the CBI's assistance in taking it forward.

I am copying this letter to the Chancellor and David Trippier.

Yours sincerely,

Terry Beckett.

CABINET OFFICE

From the Minister without Portfolio

70 Whitehall
London SW1A 2AS
Telephone 233 3299

The Rt. Hon. Lord Young of Graffham

Miss M. O'Mara,
Private Secretary to the
Chancellor of the Exchequer,
H M Treasury,
Treasury Chambers,
Parliament Street,
London, S.W.1.

5th December, 1984

Dear Margaret

You kindly sent me a copy of your letter of 29th November to Callum McCarthy about the future of the Small Business Loan Guarantee Scheme. As you know, Lord Young has been involved in the discussions on the future of this scheme and he has asked me to say that he is content with Mr. Tebbit's revised proposals, subject to Mr. Lawson's suggestions with which he agrees.

Lord Young has also noted the reference to official discussions taking place about the Business Expansion Scheme which you have now invited DTI officials to join. Lord Young would be grateful if an official from the Enterprise Unit could also be involved in these discussions.

I am copying this letter to Andrew Turnbull (No. 10), the Private Secretaries to the other members of E(A) and to Richard Hatfield (Cabinet Office).

Yours ever
Leigh

Leigh Lewis
Private Secretary

8.24 CONFIDENTIAL

To Chancellor
DTR response
AT 5/12

CC NO.

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

29 November 1984

Callum McCarthy Esq
Private Secretary to the
Secretary of State for Trade and Industry

Dear Callum,

SMALL BUSINESS LOAN GUARANTEE SCHEME

The Chancellor has seen a copy of your letter of 22 November to Andrew Turnbull. He is broadly content with your Secretary of State's revised proposals, subject a number of small provisos.

The Chancellor agrees that it is highly desirable to impose a lending ceiling of £50 million for the calendar year 1985. If during the course of the year it appears there is any risk the ceiling will be breached, your Secretary of State will, of course, want to consider whether he should announce the scheme will be closed for application after an agreed date. The Chancellor suggests this point might be made clearer in the draft written answer by amending the second sentence to read:

> "However, in order to contain costs, I am imposing a ceiling on lending in the calendar year 1985 of £50 million."

The Chancellor is grateful to your Secretary of State for agreeing to make savings elsewhere in your Department's programme to accommodate the estimated costs of extending the scheme. However, he fears he cannot agree at this stage that any additional losses should be funded from the public expenditure reserve. He will, of course, look sympathetically at any proposals your Secretary of State may put forward at the appropriate time. However, he considers that he must be free to consider the details of any claim against the reserve, if and when it arises.

You also asked whether Mr Tebbit could refer to the possibility of widening the scope of the Business Expansion Scheme in his written answer. Preliminary discussions between Treasury and Inland Revenue officials suggest that there are likely to be major problems in extending the BES to include unincorporated businesses. The Chancellor would be happy for DTI officials to join in further discussions of the possibilities in this area. However, at this stage he thinks it would be most unwise to say anything publicly about these studies.

Finally, the Chancellor feels the first sentence of the draft answer should make it clear that the scheme has not fulfilled its original goal of breaking even and should therefore read as follows:

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"I have decided that, although the experimental Scheme has not fulfilled its original goal of breaking even, it should be extended for a further year to the end of 1985".

I am sending copies of this letter to Andrew Turnbull (No.10), the Private Secretaries to the other members of E(A) and to Richard Hatfield (Cabinet Office).

Yours sincerely,

Margaret O'Mara

MISS M O'MARA
Private Secretary

small Fwng: Econ. Pol. Pt 5.

B/P w/ Treas response CCND

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/
Secretary of State for Trade and Industry

22 November 1984

Andrew Turnbull Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear Andrew.

SMALL BUSINESS LOAN GUARANTEE SCHEME

You wrote on 9 November to Paul Madden in Mr Trippier's office concerning extension of the Loan Guarantee Scheme beyond the end of December.

2 My Secretary of State has now considered further how he might tighten up the administration of the Scheme in order to reduce costs and how these could be met from this Department's PES provision.

3 He proposes that the Scheme should be extended for only one year. In addition to continuing the 5 per cent premium on the 70 per cent guaranteed by the Department, he intends to:

i) impose a lending ceiling of £50m for the year (of which 70 per cent would be guaranteed);

ii) exclude those borrowers who have personal assets available but are unwilling to pledge them as security for non-Scheme loans;

iii) require all applicants to provide to the banks a professional business plan and quarterly financial reports on their performance.

It is difficult to forecast demand for the Scheme under this regime, but it may well fall short of the £50m. It is also difficult to predict the failure rate, but on the assumption that the full £50m is lent and that failures are one in three, the net cost in the PES period would be:

£m

85/6	86/7	87/8
0.9	4.2	1.4

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991-1

Net savings are forecast in the years after the PES period from premium receipts.

4 To accommodate this, Mr Tebbit has been required to make savings elsewhere in the Department's programmes - mainly at some cost to tourism support. He is clear, however, that he would be unable to fund any losses above these figures. Should any additional losses arise they would therefore have to be funded from the contingency reserve. Only on this basis is he prepared to proceed.

5 Subject to the agreement of the Prime Minister and the Chancellor of the Exchequer on this basis, he proposes to announce the extension for one year under the above terms as soon as possible. I attach a draft for a written answer to a Parliamentary Question.

6 The new terms will then have to be put to the banks, whose co-operation will be necessary in implementing them. Given the new obligations put on them to monitor the performance of businesses under the Scheme, it will be difficult to have the new Scheme in operation in every respect from 1 January 1985. It is suggested that guarantees should continue to be issued under the present arrangements (which include the 5% premium and 70% guarantees) until the new Scheme can be brought fully into effect, which I believe should be possible in January. The alternative of discontinuing the Scheme for a time is very unattractive.

7 We are likely to be pressed about further extensions after the Scheme expires at the end of 1985. We hope therefore that it might be possible to say something in the announcement to the effect that consideration will be given to the possibility of widening the scope of Business Expansion Scheme at a future date, which the Chancellor in his letter of 5 November indicated he was prepared to consider. My Secretary of State would be grateful for the Chancellor's advice on this point. He would also like his officials to be involved in considering ways in which the BES might be extended to unincorporated businesses.

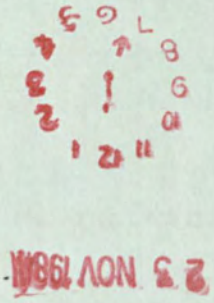
8 I am sending a copy of this letter to the Private Secretaries to members of E(A) and to Richard Hatfield (Cabinet Office).

Yours ever,

pp M C McCARTHY
Private Secretary

JH1BOG

Ecan PST.
Small firms PTS



DRAFT QUESTION AND WRITTEN ANSWER

To ask the Secretary of State for Trade and Industry what his plans are for the future of the Loan Guarantee Scheme.

I have decided that the Scheme should be extended for a further year to the end of 1985. In order to contain costs, the ceiling on lending will be £50 million. The main terms of the Scheme will remain unchanged, with the Government guaranteeing 70 per cent of loans made by participating lenders, and charging a 5 per cent premium on the amount guaranteed. As now, no personal security will be taken on Scheme loans but in future where an applicant has such security which he is unwilling to pledge against a commercial loan he will not be eligible for a Scheme loan. In order to improve the survival rate amongst Scheme borrowers, I shall be asking lenders to insist on minimum standards of appraisal and financial reporting from all applicants.

JH1BOG

Econ 101: Policy on Small Firms Pt 5.

CONFIDENTIAL

RAMAGK

B/C Mr. Warry

E(A): HMT, NIO, Energy, SO, WL, DOE, LPS, DTI, CDL, Emp, MAFF, Chief Sec, D.Trans, CO, Paymaster Gen.

10 DOWNING STREET

9 November, 1984

From the Private Secretary

MIN/4/PORTFOLIO 14/11

LOAN GUARANTEE SCHEME

The Prime Minister has seen Mr. Trippier's letter of 18 October to the Chancellor and replies from the Chancellor, the Secretaries of State for Energy, Environment, Scotland and Wales, the Chancellor the Duchy of Lancaster and the Minister without Portfolio.

She recognises that the Government's stance in relation to the small firms sector would be damaged if the scheme were allowed to lapse at the end of December. She believes, however, that given the pressures on public expenditure it would not be right to seek finance for the continuation of the scheme through a claim on the contingency reserve.

She thinks the right way to proceed is for the administration of the scheme to be substantially tightened in order to reduce the failure rate and to prevent the banks taking advantage of the scheme. Until there is evidence that the failure rate is improving the premium should be kept at 5 per cent.

The Prime Minister believes that if the cost of the scheme is limited in this way it should be possible to find the necessary finance from within DTI's existing programmes.

I am sending a copy of this letter to the Private Secretaries to members of E(A) and to Richard Hatfield (Cabinet Office).

(A.Turnbull)

P Madden, Esq.,
Department of Trade & Industry.

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PRIME MINISTER

cc. Peter Warry

LOAN GUARANTEE SCHEME

Difficult choices have arisen over the future of the Loan Guarantee Scheme. Last May it was extended to December 1984 with tighter conditions, a lower guaranteed proportion (70 per cent), and a higher premium (5 per cent). No PESC provision exists afater December 1984.

Mr. Trippier has written to the Chancellor - Flag A - proposing that the Scheme run for a further three years but (i) with the premium being put back down to 3 per cent and (ii) the conditions being further tightened. He has sought additional funding from the Contingency Reserve. Para 8 of his letter shows the cost with a take up of £100 million a year and a range of failure rates. I am told that if finance is not made available from the Treasury, Mr. Tebbit would allow the Scheme to lapse rather than cut back some of his other programmes.

A large number of colleagues have written to support the continuation of the Scheme on these terms. These include, Mr. Jenkin, Mr. Walker, Mr. Hurd, Mr. Younger, Mr. Edwards and Lords Young and Gowrie. The Chief Secretary - Flag B - has written to say that he would prefer to extend the Scheme for one further year but that he cannot offer any additional finance for it. He is therefore asking that DTI find the money or let the Scheme lapse.

This presents a difficult choice. Neither DTI nor the Treasury regard the Scheme sufficiently highly to provide finance for it but numerous colleagues see political difficulties in killing it off. You could:

(i) Conclude that the Scheme has been a disappointment; that it has been a long way from self-financing and is unlikely ever to be; that it has encouraged debt rather than equity financing; and that it has been misused by the banks. The logical course would be to let it lapse.

(ii) Recognise that killing the Scheme off would cause a major political row and weaken the Government's case on small firms.

The Policy Unit's view is that any scheme whose terms are sufficiently strict to keep expenditure within bounds will wither away in time and that it would be foolish for the Government to take on responsibility for ending it. You could press the Treasury to make available some additional money, perhaps £5 million, with DTI finding the rest.

On the terms of the Scheme itself, it seems odd to reduce the premium until it comes nearer to being self-financing. It would make more sense to tighten the administration, reduce the guaranteed share to two-thirds, as David Young suggests, and to keep the premium at 5 per cent until there is evidence that the costs are being significantly reduced. The Policy Unit note - Flag C - suggests some further tightening up which could be made.

DTI calculate that a scheme run for three years at £100 million a year, with a 5 per cent premium and a 1 in 5 failure rate and 70 per cent guaranteed by the Government, would have a whole life cost of £8 million. In fact, at the present 5 per cent premium, the annual take up is only £50 million and the total cost over three years could fall within the £5 million suggested as a contribution from the Treasury.

Do you:

(i) believe the Scheme should be allowed to lapse; or

(ii) want to press Treasury and DTI to share the cost;

(iii) agree that the premium should be held at 5 per cent until it is clearer that the cost is being brought down;

(iv) want to keep the guaranteed proportion at 70 per cent or reduce it to two thirds;

(v) agree that the Policy Unit suggestions for tightening up be pursued?

You might like to discuss this with David Young tomorrow.

AT

8 November 1984

JKRALL

E.R.

CONFIDENTIAL

File

MR TURNBULL

8 November 1984

SMALL FIRMS LOAN GUARANTEE SCHEME

As an example of what you can buy, the DTI calculate that a scheme run for three years at £100 million per year, with a 5% premium, with a one in five failure rate and 70% guaranteed by the Government would have a whole life cost of £8 million in total.

In fact, at the present 5% rate, the annual take-up is only £50 million and therefore the outcome if we continued the scheme for a further three years could fall within the £5 million that we have suggested.

Peter Warry

PETER WARRY

CONFIDENTIAL

CONFIDENTIAL

E. R.

C

MR TURNBULL 7 November 1984

SMALL FIRMS LOAN GUARANTEE SCHEME

Should the loan guarantee scheme continue and if so in what form? If it does who should pay?

DTI claim they have no money and without Treasury support they will abandon the scheme which would be politically damaging. Treasury say that any continuation must be at DTI's expense.

The scheme could be cash limited and conditions made tougher. Treasury recommend continuation of the 5% premium rate which we support. There is general agreement on improving the information provided for loan applications and for subsequent monitoring.

The scheme could be further tightened by restricting it solely to new starters (at present it's roughly a 50/50 split between new and existing businesses), or not permitting loans where there is existing bank lending (banks originally used the loan guarantee scheme to substitute for existing bad loans and when this was stopped, to help fund their way out of trouble). We could also withdraw the guarantee from banks who have acted recklessly or not conducted proper monitoring.

We recommend that a small sum, say £5 million, be provided above DTI's budget but imposing very tight conditions to get the scheme nearer the original idea of being self-financing. If DTI want more generous conditions or if it exceeds the target then they must fund it. This compromise should call DTI's bluff about abandoning the scheme for little political or actual cost.

Peter Warry

PETER WARRY

CONFIDENTIAL

ECNO.

SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switsfwrdd)
01-233 6106 (Llinell Union)
Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switchboard)
01-233 6106 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

7 November 1984

Dear Nigel

SMALL BUSINESS LOAN GUARANTEE SCHEME

File With AT

David Trippier's letter to you of 18 October sets out proposals for a new small businesses Loan Guarantee Scheme.

The Loan Guarantee Scheme is certainly perceived by the small business sector as one of the more useful and positive measures we have introduced and I do very much agree with David Trippier's observation that in deciding upon the future of the scheme and the balance of the conditions we are treading on very delicate political ground.

Prior to the changes that were introduced to the Scheme earlier this year it was extensively used and on the whole to good effect in terms of business development and job creation. The more recent evidence suggests that the Scheme as constituted at present is dying on its feet: only thirteen guarantees were issued in Wales in the quarter to end-September. There is a very real danger that the small business sector will be quite disenchanted if we do not now strike the right note and I believe that David's proposals have been seen against that background.

It is not clear which of the changes that were introduced are thought to be the primary cause of the sharp reduction in take up. The implication of David's letter is that the increase in the premium has been the more significant and with that in mind I welcome the proposal to restore it to 3%. I welcome too the proposal to continue the guarantee at 70% though, like David Young, I would not see much wrong with a one-third/two-thirds split; and the proposals for business plans, monitoring etc all seem eminently sensible.

I am, however ...

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London
SW1

Econ 981: Small Firms 845 CONFIDENTIAL

I am, however, not at all convinced that we should be going so far as to insist that an applicant must be unable to provide security. It is right and proper than an entrepreneur should make some financial commitment to the risks and he and others take to finance projects; but it is asking a lot to insist that an entrepreneurs's personal assets are laid on the line. This provision could well be very restrictive and deter many prospective entrepreneurs. It will also convince many bank managers that they are right to regard security more highly than the prospects of the project. The establishment of a climate which encourages business enterprise is one of the major planks of our policy and schemes which assist the development of small businesses are part of that policy. If we accept this then we need to think carefully about imposing such a constraint that could render the scheme ineffectual and deter the growth of the small firms sector.

/ I am copying this letter to the Prime Minister, David Trippier, Lord Young, other members of E(A) and to Sir Robert Armstrong.

CONFIDENTIAL

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1

6 November 1984

Dear Nigel,

SMALL BUSINESS LOAN GUARANTEE SCHEME

I have seen a copy of David Trippier's letter to you of 18 October 1984 about the future of the Small Business Loan Guarantee Scheme.

Whilst I can understand concern about the cost of the scheme to Government and the scale of the losses which have occurred to date, it is important not to lose sight of the value of the scheme. Although the level of scheme lending in NI has been low compared with other UK regions, it offers an important source of loan finance for small business and is of course an important proof of our commitment to the small firms sector.

I would agree with David's suggestion that we might now attempt to amend the scheme to reduce losses whilst maintaining its attractiveness to the business community. The proposals which he has put forward should encourage greater discipline both on the part of borrowers in terms of the preparation of their proposals and on the part of the banks in their monitoring of client companies, and I would support an extension of the scheme along these lines.

I am copying this letter to the Prime Minister, other Members of E(A) and to Sir Robert Armstrong.

Yours,
Douglas.

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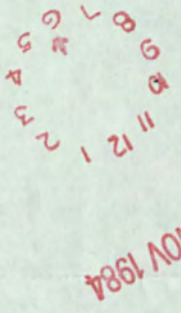
Small Firms.



CC NO

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

6th November 1984

Dear Nigel,

SMALL BUSINESS LOAN GUARANTEE SCHEME

David Trippier copied to me his letter to you of 18 October about this Scheme.

You may recall that at the time of the Scheme review in April this year, I agreed that it should continue and made some suggestions about modifying it to take account of the financial control weaknesses. I am still firmly of the view that the Scheme should continue as one of the main planks of our small firms policy.

In April I was opposed to increasing the premium from 3% to 5% because of the prospect of this leading to a reduced usage and to a greater failure rate because of the additional repayment burden. I welcome therefore David Trippier's latest proposal regarding the premium. His suggestions about control are very much in line with my own thoughts, both in terms of minimising our losses and, perhaps more importantly in the long term, doing what we can to ensure small firms are set on a sound financial footing.

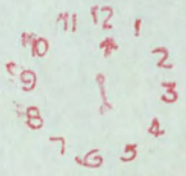
I fully accept the need for a well-developed business plan and periodic financial monitoring. I have some reservations about requiring the business plan to be prepared by a qualified accountant: provided the proposer knows what is expected there is some benefit in him preparing the plan himself since it both encourages him to think through all the implications of his business idea and it minimises his costs. These are not, however, reservations I would wish to press if accountancy input were felt by others to be an essential element of any new scheme.

I am copying this letter to the Prime Minister, other members of E(A) Committee and to Sir Robert Armstrong.

Yours ever,

Geoffrey

ECON POL: Small Firms: PTS



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CCNO

CONFIDENTIAL

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

5 November 1984

David Trippier Esq MP
Parliamentary Under Secretary
Department of Trade and Industry
1 Victoria Street
LONDON SW1

SMALL BUSINESS LOAN GUARANTEE SCHEME

file with AT

You wrote to me on 18 October about the future of this scheme. I have since seen Peter Walker's letter of 29 October and David Young's letter of 31 October.

You yourself have identified some of the problems associated with the present scheme and it is my own firm view that a loan scheme is not cost-effective. Nevertheless, I accept that it would create political difficulties if the present arrangements were simply allowed to lapse at the end of December. I think we therefore need to handle the extension of the scheme in as low a key as possible, while ensuring that we do not arouse expectations that a loan scheme has any permanent place in our plans for assisting small businesses.

I was interested to read your comments on the Business Expansion Scheme in this context. The latest information we have indicates that BES funds are going to really small companies as well as to some which are rather larger. We need a little more time before we can make a full assessment but this preliminary evidence does, I think, point in the direction of minimal further commitment to the Loan Guarantee Scheme. I understand, of course, that the BES does not apply to unincorporated businesses, but I am certainly prepared to consider whether a practical alternative could be devised for them.

My strong preference is therefore to make no change in the terms of the existing Loan Guarantee Scheme but simply to announce an extension for one further year. We may be criticised for not reducing the premium but we should be able to handle this without undue difficulty.

However, given the very tight public expenditure constraints under which we are currently operating, I fear I can hold

out no hope of offering you any additional provision to meet the potential costs of extending the scheme. These must, in consequence, be met from within your agreed PES baseline. (I understand that costs arising from the present and preceding schemes are already covered in your PES provision). If you judge that you must give other items in your programme higher priority and that you cannot make room for any losses arising from an extension of the scheme, then I can see no alternative but to close it at the end of December.

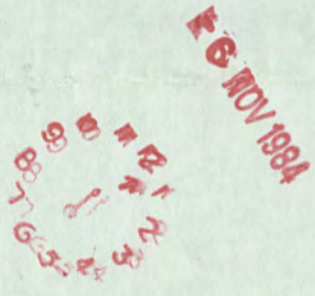
Copies of this letter go to the Prime Minister, other members of E(A) and to Sir Robert Armstrong.

Yours ever
Nigel

NIGEL LAWSON

ECM PDT PT 5

SMALL FORMS



mg

CONFIDENTIAL

CCNO

NMPM

ATC/cu

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: J/PSO/17559/84

Your ref:

5 November 1984

Dear Nigel,

SMALL BUSINESS LOAN GUARANTEE SCHEME

I have seen David Trippier's letter to you of 18 October and also Peter Walker's response of 29 October.

I would also like to offer my support for a continuation of this scheme which has proved a useful complement to the assistance for small firms provided through the urban programme.

I also consider that the best way to reduce the failure rate of businesses benefitting from the scheme is through a requirement for applicants to prepare a more comprehensive business plan and by regular monitoring thereafter, rather than by an excessively high premium on the loan. I think therefore that David's suggestions for revising the scheme are on the right lines.

I am copying this letter to the Prime Minister, other members of E(A) and to Sir Robert Armstrong.

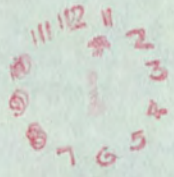
Yours ever

Patrick

PATRICK JENKIN

The Rt Hon Nigel Lawson MP

CONFIDENTIAL



ECNO

2pp's.

CABINET OFFICE

From the Chancellor of the Duchy of Lancaster

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1P 3AG

2 November 1984

Dear Nigel,

SMALL BUSINESS LOAN GUARANTEE SCHEME

File with AT

I have seen David Trippier's letter of 18 October about a new Small Business Loan Guarantee Scheme.

I agree with David that discontinuing the Scheme would be difficult to defend. With 81,000 jobs created, at a cost of some £620 per job, the Scheme represents good value for money. The proposed control arrangements should help to tighten up the Scheme and provide opportunities to encourage the banks both to improve their own funding appraisals and to take earlier remedial action when firms are heading for trouble.

I am copying this letter to the Prime Minister, other members of E(A) and to Sir Robert Armstrong.

Yours,

GOWRIE

Econ P81: Small Firms Pt 5.

CNO

CABINET OFFICE

From the Minister without Portfolio

70 Whitehall
London SW1A 2AS
Telephone 233 3299

The Rt. Hon. Lord Young of Graffham

The Rt. Hon. Nigel Lawson Q.C., M.P., 31st October, 1984
Chancellor of the Exchequer,
H M Treasury,
Parliament Street,
London, S.W.1.

NSPM

Dear Nigel,

SMALL FIRMS LOAN GUARANTEE SCHEME

I read with interest David Trippier's letter to you of 18th October about the future of the Small Firms Loan Guarantee Scheme. I agree with David and Norman Tebbit that, while the operation of this scheme has clearly been less than satisfactory up to now, we should be looking to improve it rather than terminate it. To do the latter would, I believe, send fundamentally the wrong message to the business community about our commitment to small firms. I therefore believe that we should introduce an amended LGS, drawing on the lessons learned from operating the original Scheme.

In this respect, David has clearly given considerable thought to how the Scheme might be tightened up to improve its performance. I agree that the premium should be kept at the present 3%. As to the proportion of the loan to be guaranteed by the Government, I am, however, attracted to the idea of a one third/two thirds split for two reasons. First, because this simple breakdown is something which the banking and business community typically uses and understands. Secondly, because it would further raise the banks' exposure - albeit marginally - thus putting further pressure on the banks to get their initial loan decisions right and then to monitor the progress of the borrowing firms.

David Trippier's other proposals - for a business plan prepared with the assistance of an accountant, a system of regular quarterly monitoring and encouragement to use sources of outside advice such as the Small Firms Service - are all appropriate ways of seeking to improve the performance of the LGS.

I am copying this to the recipients of David Trippier's letter of 18th October.

Yours,

David

Klaw Pol
Small Firms
Part 5

CONFIDENTIAL

NBPM

AS 29/10

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London
SW1P 3AG

29 October 1984

SMALL BUSINESS LOAN GUARANTEE SCHEME

I have seen David Trippier's letter to you of 18 October.

I hope we can agree to the new scheme he has suggested. Not only is it important to demonstrate our continuing commitment to small firms, but the scheme has potential as a reinforcement for the activities of NCB (Enterprise) Ltd in supporting and initiating job creation efforts in mining areas.

I am copying this letter to the Prime Minister, other members of E(A), and to Sir Robert Armstrong.

PETER WALKER

CONFIDENTIAL

Flow to
Small Firms
pt 5

file. EC

10 DOWNING STREET

From the Private Secretary

26 October 1984

Burdens of Regulation on Small Firms: Enterprise

The Prime Minister has seen and noted with satisfaction the efforts Department of Transport are making to reduce the burdens of regulation.

I am copying this letter to Leigh Lewis (Minister without Portfolio's Office) and Richard Hatfield (Cabinet Office).

(Andrew Turnbull)

Miss Dinah Nichols
Department of Transport

Liz

CCND

NBPM AT 25/10

EFFICIENCY UNIT

70 WHITEHALL, LONDON SW1A 2AS
Enquiries : 01-233 8412
Direct line : 01-233 7359

D Trippier Esq, MP
Department of Trade & Industry

25 October 1984

Dear David,

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

Thank you for your letter of 18 October, enclosing the study plans for this set of scrutinies.

I found the central study plan excellent. It structures the material well, and promises a determined and well-directed attack on the problems. The individual Departmental study plans are somewhat uneven, but I am sure that under the discipline of working together as a Team the studies will all in practice come up to the high standard set by the central plan.

As you say, the field to be covered is immense. But I hope that the Team will not be daunted by the impossibility, for example, of reviewing in detail the 500 statutory instruments relating to health and safety at work. Rather than taking a superficial look at all the regulations, which would inevitably lend to no practical conclusion but a recommendation for a great deal of further work, I think they should concentrate on the few that come up most frequently in their discussions with businessmen, and should aim to expose some options for action in this field, as in all the others, within the scrutiny period.

I am sending copies of this letter to the recipients of yours.

Yours ever,

ROBIN IBBS

Comp Pts

Small Firms

KC

CONFIDENTIAL

Prime Minister

To note AT 23/10

BURDENS OF REGULATION ON SMALL FIRMS: ENTERPRISE

I have seen your minute of 9 October and also David Young's minute to you of 2 October about Enterprise. David Mitchell will be ready to join the inter-departmental group on small firms and Michael Spicer those on deregulation and competition which David Young proposes.

An efficient and liberal transport market, free of unnecessary restrictions, is important both for businesses and personal mobility, and is therefore a vital part of any policy to increase enterprise. As you know, I have already introduced measures which will increase competition in the transport sector of the economy and reduce the burden of regulation on firms.

The domestic transport sector is already highly competitive. The policy set out in the White Paper on buses will tackle one of the last bastions of protectionism in the transport market bringing an end to 50 years of regulation. Deregulation of local bus services will allow greater competition, increase efficiency, provide opportunities for many small firms and improve the service to the public. The deregulation of long-distance coach services has already shown how successful this approach can be.

Norman Tebbit's review of administrative and regulatory burdens on small firms did not identify any area in this Department where further action might be taken beyond what is already planned. I have nonetheless instituted a review in my Department of the regulations it places on businesses, particularly small businesses, to examine what scope there is for reducing or simplifying them still further. Most of our regulations are aimed at ensuring safety. That is important, but they need to be kept as simple as is consistent with their purpose.

I am also pressing for the liberalisation of transport services in the European Community. A liberalised European transport market will be an important step towards completing the EC's internal market and thereby stimulating trade and economic growth. We have already reached agreement with the Dutch on by far the most liberal bi-lateral air services agreement in Europe and this has led to reduced fares on the Amsterdam route. I hope to build on this in further discussions now underway with other European countries, particularly Germany and Cyprus. I have also obtained agreement of other Member States to the setting-up of two high-level groups to consider the liberalisation of international air services and road haulage and to report back to the Council in December.

I am copying this minute to Cabinet colleagues and to Sir Robert Armstrong.

NICHOLAS RIDLEY

23 October 1984

Small Firm

cc | PS/Secretary of State
PS/Sir Brian Hayes
PS/Sir Anthony Rawlinson
Mr Dell
Mr Cooper
Mr Dougherty MSM
Mr Simpson MSM
Mr Kemmis SF

Mr Brecknell - with papers

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 3781
GTN 215)
(Switchboard) 215 7877

From the Parliamentary Under Secretary of State for Industry

Prime Minister (2)
To note how the scrutiny exercise is being conducted
MW Thornhill
AT 22/10

Sir Robin Ibbs
Efficiency Unit
70 Whitehall
LONDON SW1

22 October 1984

~~Please send to~~ Patrick Young

Dear Robin,

The study plan for the "compliance costs" scrutiny has now been prepared by the scrutiny team, in consultation with your Unit. I enclose a copy.

Notes on work in the seven participating Departments are attached to the central plan for the study as a whole. These have been submitted separately to supervising Ministers.

The plan outlines the scope of the study and the framework within which the team are tackling it. It covers a huge field. Health and safety at work alone, for example, involves some 500 separate statutory instruments. In areas of this kind an in-depth appraisal of each individual requirement will not be possible; I would expect the team to focus instead on the strategic issues, recommending detailed follow-up work where appropriate within the scrutiny framework.

The team will need to complete the initial field work (which is already under way) before the main possibilities for action start to crystallise. Of the three broad options identified in part 4.3 of the plan, the second and third may often be the front-runners; that is, action to improve the "compliance cost efficiency" of existing requirement systems, and to promote a better co-ordinated attack on the problem as a whole. But I think it important that the fundamental question underlying the first option - whether there is a case in each area for a completely different kind of approach - should also be asked and answered.

I am copying this letter with enclosures to the Prime Minister, Leon Brittan, Nigel Lawson, Patrick Jenkin, Norman Fowler, Tom King, David Young, Grey Gowrie and Sir Robert Armstrong.

Yours ever,
David

Enc.

DAVID TRIPPIER

DT3ADA

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS ON BUSINESS

Central Study Plan

1. INTRODUCTION

1.1 This scrutiny was agreed at a meeting of Ministers on 24 July 1984 to review progress on the removal of administrative and legislative burdens from small firms.

1.2 There will be studies in 7 Departments (Inland Revenue, Customs and Excise, the Home Office, the Department of the Environment, the Department of Health and Social Security, the Department of Employment Group, the Department of Trade and Industry); and a general report, prepared in the light of these, on wider issues and lessons.

1.3 DTI are co-ordinating the scrutiny. The Efficiency Unit and the Treasury are represented on the scrutiny team. A list of team members is attached.

2. TERMS OF REFERENCE

"To review, within the framework of Government policy on taxation and public expenditure, the burden imposed on business by administrative and legislative requirements of central and local government, with particular reference to smaller businesses;

to ask:-

- what are the areas in which reductions in compliance costs would make the biggest difference to business, especially to small firms;

- what are the main obstacles to securing a substantial reduction in these costs;

- what areas of regulation should be amended;

- how compliance costs should be monitored and kept under control."

3. SCOPE

3.1 The scrutiny will focus on requirements of two kinds: those which make business:-

a. do administrative work on government's behalf - collecting tax (VAT, PAYE) and NIC; paying benefits (SSP) and providing information (statistical returns; information on industrial injuries);

b. comply with rules to protect:-

i. the general public (eg requirements on planning, environmental protection, fire prevention, data protection);

ii. employees (eg requirements on health and safety, employment protection, minimum wages, non-discrimination);

iii. consumers, other traders and investors (eg consumer law, company law, restrictive trade practices law).

3.2 Alongside collection costs, we shall look at some other tax matters in the light of small firms' views: for example, the effect of the rules determining the classification of individuals as employed or self-employed. But major issues touching the levels of taxation and of National Insurance, and the distribution of the tax/contributions total, lie outside the scope of the study.

3.3 We shall consider what central and local government can do to help firms comply with requirements more easily. And we shall follow up any significant points raised with us by business itself on ways in which government assistance or

other facilities make life unnecessarily difficult for applicants. With these exceptions, we shall not be concerned with Government facilities for industry.

4. METHOD OF WORK

4.1.1 The core of the work will be a critical scrutiny of the purpose each group of requirements is designed to serve, the costs it imposes, and the benefits it is said to secure. We shall ask whether the purpose is a necessary one; and if it is, whether it could be achieved at lower compliance cost.

4.1.2 The annex to this plan summarises the work planned in each Department.

4.2 Stages of the Study

4.2.1 The scrutiny will be carried out in three stages.

4.2.2 First, we shall interview as many business managers as possible, particularly in small firms; as well as business and other organisations, and those responsible for requirements in Departments.

4.2.3 Interviews with business will be crucial in deciding where the most serious burdens arise. Interviews with "recent starters" and other very small undertakings will be especially important. Compliance costs may be felt most severely at this end of the spectrum.

4.2.4 Check-lists will be prepared of points to be pursued in the field work, which will be modified as necessary as the work proceeds. We are considering ways of supplementing our own interviewing, within the scrutiny timetable, with other interview-derived data.

4.2.5 Secondly, on the basis of the field work we shall identify options for action on compliance costs, within the framework at 4.3 and 4.4 below.

4.2.6 Finally, we will test and improve our ideas in further discussions in Departments, and where necessary in follow-up interviews with businesses.

4.3 Action on compliance costs

4.3.1 Where Government intervention of some kind is unavoidable, we shall examine the case for:-

- alternatives to present requirement systems (such as reliance on rights in civil law instead of government regulation backed by criminal law; replacement of complex, detailed statutory requirements by more flexible, general statutory duties);

- " efficiency" reforms within present requirement systems to reduce compliance costs for small firms or for enterprises generally - by simplifying the requirements themselves, their enforcement, and/or Government/ business communication about them;

- a better co-ordinated response to the problem as a whole, as regards:-

  i. information and advice for businesses from central and local government ("one stop shops");
  ii. the activities of the various enforcement agencies (Customs, Revenue, HSE, DHSS, local authorities);
  iii. the interface between Departments (eg on PAYE/NIC; fire/building regulations; tax/statistical records and returns; government consultations with business on changes in requirements).

4.3.2 Also looking at the problem as a whole, we shall consider how Departments' "compliance cost consciousness" can be improved, against the background of the cost control policies underlying the Financial Management Initiative; and whether general targets could be set for containing/reducing compliance costs.

4.4 Constraints

4.4.1 We shall have in mind:

- the need to maintain the revenue base (for tax/NIC); and to contain public expenditure and manpower (which limits the scope for shifting compliance costs from business to Government);

- the European Community dimension (EC law, for example, regulates the VAT system in detail; and the Community is a major source of new requirements in other areas to be examined).

4.4.2 Compliance costs in category (b) - 3.1 above - depend in part on the balance struck between business and other interests in deciding the level of "protection" required. We shall identify any areas in which substantial reductions in costs could be achieved by striking a different balance; and the options open to Ministers if they wished to do so.

4.5 Other matters

4.5.1 The study will touch on matters within the scope of separate policy reviews inside or between Departments. Where these have been completed, we shall identify and comment on any conclusions relevant to our work. Where not, we shall keep in touch with and take account of the specialised review in making our recommendations.

4.5.2 The Council of Civil Service Unions has been informed of the scrutiny and invited to contribute; as have

the Trade Union sides in each Department concerned.

5. TIMETABLE

5.1 Our 90-day programme is as follows:-

scrutiny started	Monday 24 September
study plans submitted to Ministers	w/b Monday 15 October
initial and follow-up interviews with firms and those responsible for requirements in Departments	completed by Friday 16 November
consultations on draft synopses of recommendations (including consultations with TUS)	completed by Friday 30 November
departmental reports	completed by Friday 21 December
consultations on "wider lessons" report (including consultations with CCSU)	completed by Friday 18 January 1985
"wider lessons" report	completed by Friday 25 January 1985

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

Scrutiny Team

Mr N P Brecknell	Team Leader

Departmental Scrutiny Officers

Mr M K Brenchley	Home Office
(Mr R K Harrison (Mr D C Alexander	Department of Employment
Mr D R Instone	Department of Environment
Mr W L Parker	HM Customs and Excise
Mr J H Reed	Inland Revenue
Mrs E Somerville	Department of Health and Social Security

Other Team Members

Mr D B Andren	HM Treasury
Mr C J A Chivers	Efficiency Unit

SCRUTINY OF LEGISLATIVE AND ADMINISTRATIVE BURDENS

INLAND REVENUE STUDY PLAN

Introduction

1. The scrutiny was set up to look at administrative and legislative burdens, particularly on smaller firms, and consider whether these should be reduced. The terms of reference, the broad approach to be adopted and the timetable are set out in the central study plan. The Revenue scrutiny will be carried out by Mr J H Reed.

2. Other examining officers are looking at the burdens in the Department of Employment, Home Office, Department of Health and Social Security, Department of Trade and Industry, Customs and Excise and Department of Environment. The examining officers will keep in close touch and the exercise as a whole is being led by Mr N P Brecknell of the DTI.

Scope

3. The purpose of the scrutiny is to reduce compliance costs on small businsses, not to reduce the tax burden. So recommendations should not give rise to any substantial changes in tax payments.

4. The enforcement powers of the Revenue departments have already been examined by the Keith Committee. Its recommendations are now the subject of consultation. While many of the recommendations have little bearing on the current scrutiny, some would affect burdens on small firms. I shall try to identify these and comment on their effects. Where my recommendations overlap with those of the Keith report I shall explain any differences.

Major issues

5. Compliance costs fall into 2 broad categories. Routine administrative tasks to be carried out by all firms of a certain kind - eg the operation of PAYE. And the cost of responding to checks by the Government that compliance is satisfactory and, where it is considered not to be, the costs of responding to enforcement action. Each aspect of the major costs will need to be looked at, including whether they fall disproportionately on smaller firms. Another important aspect is the scope for reducing the overlap between compliance costs imposed by different departments (eg visits by different officials). Reduction of overlap could have the additional advantage of increasing the effeciency of the Civil Service.

6. One particular area of overlap to be looked at is between PAYE and NICs.

7. Another tax collection mechanism which affects many small firms is the sub-contractor deduction scheme (and the "714 certificate"). This was looked at by the Keith Committee

but I shall review this in the context of the present scrutiny.

8. An area which could have adverse effects on the Civil Service is that of increasing the comprehension by small businessmen of what is expected of them. In part this could be done by improved literature etc but the other possibility is increased guidance from civil servants. It is necessary to strike a balance between helping small businessmen and avoiding large increases in Civil Service manpower: there is no point in simply moving costs from the private sector to the public sector.

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS
CUSTOMS AND EXCISE STUDY PLAN

1. INTRODUCTION

1.1 This scrutiny is being co-ordinated by the DTI and its main lines are set out in the central study plan to which this annex relates.

2. SCOPE

2.1 VAT

2.1.1 Each year 1.4 million registered traders submit 6.4 million VAT returns to raise around £15 billion revenue. Most submit quarterly VAT returns and keep records and accounts which are subject to inspection by VAT Control Officers. Some are entitled to repayments of VAT and many of these submit monthly returns.

2.1.2 Drawing on the extensive work which has already been done, we shall examine the requirements imposed, with particular regard to small businesses, to see what scope there is for reducing them.

2.2 Customs

2.2.1 When taken together, community goods and consignments of small value (ie. NE £200) amount to an estimated 58% of all imports into the UK. However, they still require full customs documentation whose purposes is little more than to allow the gathering of statistics and provide for control. There are at least 50,000 regular importers whose compliance costs could be reduced if requirements in the Customs area were simplified. The statistics burden will be examined in conjunction with DTI. Constraints imposed by EC regulation will be identified and examined.

3. THE MAIN ISSUES

3.1 The purpose of the scrutiny is to reduce compliance costs, particularly on small businesses, not to reduce the tax burden.

3.2 The ground on VAT has been well trodden and reviewed quite recently /by Mr Michael Grylls, MP/ and we shall draw on this

but will try to start out with a fresh look at ideas for relieving burdens of administration on business - including a look at retail schemes. The EC Sixth VAT Directive is a severe limitation on our freedom to recommend certain courses (such as raising the VAT exemption threshhold). We shall include a section on the outlook and practice of other member states.

3.3 There is some evidence to suggest that the cost of complying with VAT requirements bears more heavily upon small businesses. We shall seek to establish whether VAT requirements are a disincentive to setting up new businesses.

3.4 Improved communication with business may help to reduce the difficulty of compliance and perhaps its costs. We shall liaise closely with the work of our colleagues in Customs and Excise who are reviewing the "Handling of Enquiries from the Public" in a separate departmental scrutiny.

4. KEITH COMMITTEE REPORT

4.1 The enforcement powers of the Revenue Departments have already been examined by the Keith Committee. Its recommendations are the subject of consultation. We shall consider how they might affect the compliance burdens on business.

5. TUS LIAISON

5.1 The Departmental TUS have been advised of the scrutiny and, in the very short time available, we have been in touch with them about the study plan and will be maintaining contact with them.

6. SCRUTINY TEAM

6.1 The Customs and Excise study team is W L Parker (team leader) and C M Quinn.

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS **ANNEX C**

HOME OFFICE STUDY PLAN

Introduction

I.1 Home Office functions relevant to the scrutiny cover a wide field and consist mainly of statutory licensing, registration and other provisions affecting particular kinds of businesses.

I.2 Some provisions, however, significantly affect extensive areas of business. Fire prevention requirements, for example, impose heavy compliance costs. So, arguably, do restrictions on the opening hours of shops. These areas, and others, are already under separate review.

Scope of Home Office study

2.1 Home Office requirements proposed for inclusion within the scope of the study are set out in paragraphs 2.2 to 2.5 below.

2.2 PUBLIC HEALTH AND SAFETY

Fire prevention	To protect life. Certification of premises designated by use.
Controlled drugs	Home Office licensing to control import, export, production, supply and possession.
Poisons	Registration with local authority of shops selling poisons.
Firearms dealers	Registration with the police. Provisions on firearm security and record keeping.
Cinemas	Licensing by local authority with conditions as to fire precautions and censorship.
Other places of public entertainment	Similar licensing by local authority.
Places of private entertainment	Similar (but adoptive) licensing of places where large numbers gather.

2.3 PREVENTION OF CRIME

Television dealers	Registration of dealers to combat licence evasion. Record keeping.
Scrap metal dealers	Registration of dealers by local authority. Record keeping.

2.4 PUBLIC AMENITY AND PROTECTION OF EMPLOYEES

Shops	Restrictions on shop hours, Sunday trading.
Late night refreshment houses	Licensing by local authority.
Take-away food shops	Closing hours restrictions by local authority.
Night cafes	Stricter closing hours restrictions.
Street trading	Adoptive local authority licensing under the general law and some local Acts.

2.5 PRIVACY AND DECENCY

Data protection	Registration with a Data Protection Registrar if holding personal data on computers.
Video recordings	Classification of videos by their suppliers.

The Main Issues

3.1 Those Home Office requirements imposing the heaviest and widest spread burdens of compliance merit priority attention, so a study of fire prevention is proposed first and then of shop closing provisions and data protection. Attention would then be given to the remaining requirements listed above. Due account would be taken of reviews carried out or being carried out in any of these areas and of any relevant recommendations made or proposals being considered.

Examining Officer

4.1 The Examining Officer appointed to carry out the study in the Home Office is Mr M K Brenchley, E.3 Division. He will be assisted by Mr R S Hoys, M Division.

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS:
DEPARTMENT OF THE ENVIRONMENT STUDY PLAN

1. Scope of Scrutiny

Administrative and legislative requirements (ALRs) for which DOE is concerned fall mainly into the following categories:-

a) Those controlling the physical premises of firms and their surroundings.

b) Requirements by local authorities.

Many of the individual requirements at (b) arise from other Departments' legislation; but DOE has an interest in the aggregate of these requirements.

2. Issues to be examined

(i) Priorities

Before the scrutiny began, Ministers had already identified as areas for examination:-

i) The impact of the planning system on small firms;

ii) The scope for streamlining contact by small firms with local authorities.

Initial examination suggests these are sensible priority areas for further scrutiny. (ii) below suggests other areas which we intend also to look at. Throughout the scrutiny it will be important to bear in mind that the requirements which have the most significant effects on firms will not necessarily be those which are the most conspicuous to firms. We will therefore regard complaints by firms as important but not necessarily conclusive indicators of the relative significance of different burdens.

(ii) Detailed areas to be examined

(a) The planning system

Industrial development, or major change of use of existing development, generally requires planning permission to be obtained from local authorities, with right of appeal to DOE. We shall examine how far this is hampering firms as a result eg of the system's alleged rigidities and delays. We shall take account of circulars issued to local authorities in 1980 and 1984 suggesting greater flexibility and also current plans for further simplification (eg the Government's proposals for special planning zones).

(b) Building regulations

The law provides for detailed regulation for the construction of buidlings - primarily for health and safety reasons. (The Government is now in course of simplifying the system). We shall examine whether this is adversely affecting the supply of premises and how far the proposed simplification may help firms.

(d) Environmental controls and other controls enforced by local authorities

There is much detailed legislation (for which DOE is responsible) on environmental pollution which affects firms - especially air and noise pollution and on the discharge of waste. We shall examine the impact on firms of both existing and proposed new regulations. We shall pay special attention to the way local authorities enforce both existing environmental requirements and requirements (eg on health and safety) for which other Departments are responsible.

(e) Statistical returns and other form-filling

Firms which are asked by DOE to complete statistical returns are mainly confined to the construction industry. (These returns formed part of the 1980 Rayner review of Government statistics). We shall examine any complaints from firms about this and about any other aspects of form-filling for which DOE is responsible.

(f) Rates administration

Major issues of rates policy are outside the scope of this scrutiny. Rates procedure was the subject of a recent separate Rayner scrutiny. However we shall examine any specific complaints raised during our scrutiny.

3. Examining Officers

These will be Daniel Instone and Simone Sharpley of DOE.

ANNEX E

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

DHSS STUDY PLAN

INTRODUCTION

1. The Department's main spheres of influence on the activities of businesses fall under the headings of social security, environmental health and medical regulation.

2. DOE's scrutiny will cover the environmental health aspects and the HO will be looking at the control of drugs and licensing, each consulting with DHSS officials as necessary. The DHSS scrutiny will concentrate, therefore, on social security aspects.

SCOPE OF THE SCRUTINY

3. The principal areas of the social security scheme which impinge on businesses are National Insurance Contributions, Statutory Sick Pay, Industrial Injuries and Occupational Pensions. There are also some minor burdens arising from the operation of the Family Income Supplement and Supplementary Benefits Schemes which will be considered, but as a lower priority.

4. The Occupational Pensions field will not be examined in the same depth as the other areas. These burdens are largely voluntary in that businesses choose at present whether to provide occupational pensions and, therefore, whether to enter the regulatory areas of the contracting-out provisions etc. Furthermore, so far as most small businesses are concerned, the burdens are borne by the insurance companies who run their schemes rather than the businesses themselves.

5. In the sections below, each area to be covered by the scrutiny is described, together with the main points of concern already raised by businesses or their representative organisations.

MAIN ISSUES

National Insurance Contributions

6. In 1975 the system of national insurance contributions (NIC), based on stamped cards for all employed and self-employed people, was replaced by an earnings-related scheme. Now employers must deduct an employee's contribution from his wages and send it, together with the employer's share of the total contribution to the Inland Revenue (IR). This part of the system runs in tandem with the PAYE system and will involve close co-ordination with the IR Scrutiny. The self-employed continue to pay a flat-rate NIC by stamping a card or direct debit and also pay an earnings-related equivalent, through the tax system, on profits.

7. The implications for business of the different rates of NIC, the different procedures for their collection and the differences between the NIC and PAYE systems will be the main thrusts of the scrutiny, examining the issues raised in the main study plan.

8. In particular, the scrutiny will examine

a. the position of the self-employed NIC vis à vis the employed, asking:

- is there any disincentive to movements between the two?

- is there consistency of treatment by DHSS and IR?

- is there any difficulty arising from the confidentiality rules?

b. the basis of the NICs for employed people, asking:

- is there scope for closer harmony between the PAYE and NIC systems in liability, assessment and enforcement eg the week-by-week/month-by-month NIC system as opposed to the cumulative tax system, the definitions of gross pay, visits by DHSS/IR staff, rationalising the positions of married women and pensioners etc?

9. The procedures will be looked at closely with a view to simplification and/or clarification, as required, starting from the review that has already been conducted from the DHSS point of view[+] but, in this case, considering the impact on the businesses affected.

Statutory Sick Pay

10. Since 1983 employers have been responsible for paying statutory sick pay (SSP) to their employees for up to 8 weeks of sickness absence in a tax year, in place of national insurance sickness benefit. The amounts of SSP paid out are recovered by withholding the same amounts from the national insurance contributions sent to the IR each month.

11. The scrutiny will examine the overall impact of SSP in businesses, particularly small businesses, together with the burden of the SSP procedures (ie setting-up, forms, decision-making, payment, records, reimbursement etc).

12. In particular, we will be asking if the burden of SSP is falling disproportionately heavily on small businesses.

Industrial Injuries

13. The industrial injuries (II) scheme provides benefits to compensate for the loss of earnings where employees suffer disablement or death due to injury or disease which arises out of, and in the course of, their employment. The basic disablement benefit may also attract increases in cases of unemployability or special hardship, or towards the costs of hospital treatment or constant attendance. It is inherent in the nature of the scheme that enquiries are made of employers and, therefore, that some records are kept.

[+]'BROUGHT TO ACCOUNT': Report on the Validation of NI Contribution Records, 1981.

14. In the scrutiny we shall consider the burdens that are placed on businesses by the II scheme, the extent of record-keeping required and the degree of follow-up enquiries made by DHSS.

15. In particular, we shall examine the progress made since the review of II which gave rise to the White Paper "Reform of the Industrial Injuries Scheme" published in 1981 (Cmnd 8402) and the interactions between the II scheme and the SSP scheme and the responsibilities of the Health and Safety Executive, in conjunction with DE.

Occupational Pensions

16. The social security system provides, through NIC, for a basic flat-rate retirement pension plus an earnings-related additional pension. Employers who provide occupational pensions schemes of a defined, acceptable standard can contract their employees, who are members of such schemes, out of the additional part of the State scheme. Where an employee is 'contracted-out', both the employees' and the employers' shares of the NIC are reduced.

17. Since the decision to provide access to an occupational pension scheme is a voluntary one, any burdens on businesses are also, to a degree, voluntarily assumed. These do not, therefore, rank as highly in our scrutiny's considerations as others which are unavoidable. Furthermore, the Government Actuary in his 6th Survey of Occupational Pensions Schemes stated that at least three-quarters and probably more (especially of the very small schemes) of those schemes with fewer than 100 members rely on insurance companies for all the administration of their schemes. In these cases, which probably cover a large proportion of the small businesses in which our scrutiny is particularly interested, the burdens will be borne by the insurance companies rather than the businesses themselves. It would not, therefore, be cost-effective for us to spend a great deal of time on this subject.

18. We shall, however, look at the areas identified by a review last year which would affect the burdens on small businesses and comment on these effects. The main recommendations of that review are currently the subject of Ministerial consideration. We shall also pursue any specific points raised by business contacts in the course of the scrutiny.

Family Income Supplement

19. Family Income Supplement (FIS) is a weekly cash benefit for employed or self-employed people in full-time work who are bringing up children on low wages. Again, as with II, enquiries of the employer/business as to wages/income are an inherent part of the scheme.

20. We shall scrutinise, in particular, the operation of FIS and the relative burdens on employed and self-employed claimants.

Supplementary Benefits Scheme

21. Supplementary benefit (Supp Ben) is a means-tested benefit available to those not in full-time work who may have another source of income but do not have enough money to live on. Enquiries are mainly made of employers in the means-testing of initial claims, to see what wages were paid at the last employment. In other cases, where a man in work is not supporting his wife and children who claim Supp Ben, enquiries are made to establish his ability to do so in order to minimise the cost to the public purse.

22. These are burdens where they occur, but in no way can they be predicted or taken into account in any decision-making by a business. They are, accordingly, low priority subjects in the context of this scrutiny and may be excluded altogether if there is insufficient time to consider them.

METHODOLOGY

23. In addition to the centrally-arranged visits to small businesses and representative organisations, we shall make use of our regional and local office structure by accompanying local office inspectors on their surveys and visits to businesses.

24. We also intend to talk to local office staff concerned with, and in some instances specialising in, contributions, SSP and II work.

25. Visits will also be made to policy branches, and operational branches including those at Newcastle Central Office (for NIC) and North Fylde Central Office (for II).

26. If considerations stretch into the field of evidence for the adjudication of benefit claims, a visit will be made to the Office of the Chief Adjudication Officer.

EXAMINING OFFICER

27. The examining officer will be Mrs E C Somerville, who will be assisted by an LO1/HEO from the Regional Organisation.

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS : DE STUDY PLAN

SCOPE

The scrutiny will concern itself with schemes administered by DE Group which impose obligations on employers in respect of:

- the offer of employment itself (aspects of Race Relations and Equal Opportunities legislation and the Disabled Quota).

- terms and conditions of employment (Wages Councils, Equal Pay, the Truck Acts and a number of parts of the Employment Protection legislation such as maternity leave and pay).

- the termination of employment (mainly those parts of the Employment Protection legislation concerned with unfair dismissal, redundancy pay, transfer of undertakings and notice of termination; aspects of Race Relations and Equal Opportunities legislation; inquiries from the Unemployment Benefit Service).

- the working environment (all the numerous parts of Health and Safety legislation and its administration).

Additionally we will examine the burdens imposed by the Department's statistical needs, the conditionality of its various schemes for employment and training assistance, the requirements of Industrial Training Boards and the licensing scheme for employment agencies.

ISSUES

Employment Protection Legislation

Subject to various exemptions for small firms, employers have a wide range of obligations under the Act and the associated regulations. The provisions which are seen as most burdensome are probably those relating to unfair dismissal, maternity leave, transfer of undertaking and redundancy pay. The scrutiny will assess the total impact of these and other obligations under the Act on firms, in relation to other burdens.

Wages Councils

These statutory bodies set minimum wage levels for selected industries where normal collective bargaining is weak or non-existent. Those industries have high concentration of small firms, who complain that their expansion is thereby inhibited. The scrutiny will address itself to the question of why this legislation and its machinery remains in being.

Health and Safety

All employers (and self-employed) have general obligations under the Act as well as specific obligations (including those under older pieces of legislation) relating to individual sectors, industries or processes. Known complaints (especially from small firms) relate to the volume and complexity of the legislation, the obsolete nature of some of the requirements, the processes of enforcement (particularly by Local Authorities) and inadequate consultation on new regulatory proposals. The scrutiny will be concerned with (a) the cumulative impact of the legislative requirements themselves and what are said to be the obstacles to rationalising them (b) the enforcement processes used by HSE and local authorities and (c) the means of controlling the growth of burdens in the future, including the use of cost-benefit analysis.

Other Employers' Obligations

The scrutiny will assess the nature and tractability of burdens which may be imposed on businesses by:-

Equal Pay

Truck Acts

Industrial Training Boards

Disabled Quota

Race Relations (employment aspects)

Equal Opportunities (employment aspects)

Unemployment Benefit Service inquiries

Conditionality of employment/training assistance schemes (eg YTS, YWS, EAS)

Departmental Statistics

Employment Agencies Licensing

In some of these cases it is not entirely clear to what extent businesses (even small firms) necessarily see their obligations as particularly burdensome. Hence the scrutiny will have to establish the facts more clearly before deciding whether remedies are called for (or are feasible in individual cases). The purpose of each scheme will be examined and a judgement made as to whether the present form of regulation should be retained or modified.

Information and Advice

It is believed that employers may find burdensome the multiplicity of information outlets and varying quality of the advice given on their many statutory obligations. The question of centralising and improving the quality of information and advice will be examined as part of the wider issue of the "one-stop shop".

METHODS

Desk study of existing written factual material and other studies;

Interviews with officers in relevant policy branches;

Examination of EEC Directives, Recommendations etc and comparable ILO instruments, where appropriate;

Survey of experience of ACAS Regional Officers in dealing with employers' perceptions of "burdens";

Field visits with relevant inspectorates/advisory staff;

Consultation with companies and their organisations (to be arranged by DTI);

Analysis of complaints received by the Department.

THE SCRUTINY TEAM

D.C. ALEXANDER	Principal
N.C.ASTON	HEO
L.POSTLE	EO

SCRUTINY OF ADMINISTRATIVE AND LEGISLATIVE BURDENS

DTI STUDY PLAN

INTRODUCTION

DTI is one of seven departments participating in this scrutiny. The terms of reference, the broad approach to be adopted and the timetable are set out in the central study plan.

SCOPE OF THE DTI SCRUTINY

The administrative and legislative requirements of DTI within the scope of the study are of two main types:

i) market regulation for the benefit of customers, traders and investors - where the burden on business is the need to operate in ways different from those the market might otherwise allow; and/or to cope with the activities of enforcement agencies; and

ii) Statistical surveys - where the burden on business is the time and effort required to collect the information sought and make the necessary returns.

Priority will be given in the study to:

- Consumer and fair trading law, including:
  - consumer credit legislation;
  - weights and measures legislation;
  - trade descriptions and marking legislation;
  - consumer safety legislation
- Company law including:
  - requirements relating to accounts, auditing and disclosure;
  - registration procedures and the filing of statutory returns;
  - alleged disincentive effects of aspects of insolvency law.
- Statistical surveys conducted by the Department and BSO.

Of lower priority, subject to business comment, will be more specialised areas of regulation:

- Administration of Restrictive Trade Practices legislation
- Regulation of insurance
- Regulation of financial markets
- Regulation of telecommunications (including apparatus approval) and radio services
- Regulation of external trade
- Requirements of Article 100 Directives in the DTI area.

The scrutiny will not examine policies underlying assistance or incentive schemes or facilities for business. Their operation and administration will be scrutinised to the extent that business comment may suggest that smaller firms find them difficult to use. Regional Development Grants, Support for Innovation, BOTB Services and the Small Firms Service itself fall into this category.

It is not at this stage proposed to examine the workings of the Patent Office (where work is already in hand on a response to Cmnd 9117). Should however this prove to be a major source of concern to the businesses we talk to, we may wish to reconsider this exclusion.

ISSUES TO BE ADDRESSED

Consumer Protection

The prime focus is likely to be on consumer/fair trading requirements imposed under the criminal law and enforced by local Trading Standards Officers, though we shall also examine areas, such as product liability, where existing or proposed duties giving rise to rights of action under civil law could impose substantial burdens on business. Priority topics may be:

- the scope for achieving acceptable protection levels in less complex ways (progress is already being made on this in relation to the law of price comparison; the substantial apparatus of regulation under the consumer credit act may merit similar review)

- the scope for greater reliance on rights in civil law rather than detailed government intervention backed by criminal law

- the scope for making enforcement more "business-friendly" and more consistent from area to area.

Company Law

The starting point in this area will be to establish what the benefits of the main existing requirements are and why smaller firms have particular difficulty in meeting the requirements. We shall then seek to identify:

- which aspects of the existing requirements should be regarded as essential obligations on any company

-(bearing in mind the present high rate of default in filing annual returns) whether changes in these requirements or the modalites for complying with them could reduce the cost and difficulty of compliance and thus raise the compliance rate

- the scope for exempting smaller companies from other requirements, or achieving their effect in ways better adapted to procedures and practices commonly adopted in smaller firms.

Statistical Surveys

Statistical burdens on business generally have already been reduced following the Prime Minister's initiative in 1981 and a five year rolling programme to review regular surveys to business is in hand in all Departments concerned.

We shall examine the impact of this work so far on statistical requirements on small firms (ie those employing less than 200) and particularly the very smallest (those employing less than 10); and consider whether anything more could be done to reduce burdens in this sector (for instance, whether sampling techniques can be modified to spread the statistical burden more evenly among small firms).

SCRUTINY TEAM

The DTI scrutiny will be conducted by Mr J M Whitlock and supervised by Mr N P Brecknell (who is also leading the exercise as a whole).

S10

BHF wt Treasury and PM responses AT 22/10

cc NO 10

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 3781
GTN 215) .....
(Switchboard) 215 7877

JU398
From the Parliamentary Under Secretary of State for Industry

18 October 1984

CONFIDENTIAL

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

Prime Minister
Members of EA
Lord Young of Graffham
PS/Sir Brian Hayes
Mr Kemmis
Mr Dell
Mr Jardine
Mr Brown FRM

Dear Nigel,

SMALL BUSINESS LOAN GUARANTEE SCHEME

The seven month extension to the Loan Guarantee Scheme which you agreed to in May will end on 31 December. We must give the participating banks adequate notice of our intentions, and if there were to be any new Scheme it would take two months to clear in Brussels. Therefore decisions need to be taken and announced by the end of this month.

2 Your officials have been informed that the gross cost of the Scheme this year is expected to be £49,996,000, against the £20million provided for in the Estimates. Your officials also have figures for the estimated costs in future years of both the pilot Scheme and the present extension on the same assumption that the failure rate will be 1 in 3.

3 The first consideration, of which you will be aware, is that this Department has no PES provision beyond the end of this year; no applications for guarantees will therefore be received under the Scheme after 31 December 1984.

4 I have discussed the position of the SFLGS with Norman Tebbit. It is his view, and mine, that there are some unhappy lessons that have been learnt from the experience of the LGS. In retrospect it is clear that there are major obstacles in the way of self financing for such a scheme, as other countries have also found out. We were over-optimistic about the ability of the banks to improve the quality of their loan decisions and also about the ability of small firms to achieve their plans. These are of course areas where significant improvements can be looked

for only over a period of time. The ideal solution might have been to stimulate the flow of equity investment in the necessary small amounts into such firms, and the Business Expansion Scheme was intended to achieve this, although it too needs to be developed down market.

5 Norman Tebbit asked me to consider what changes I would propose in the Scheme were we now to be in the position of starting out on a new SFLGS.

6 The pilot Scheme has been valuable in helping small firms, with over 15,000 guarantees issued, and in stimulating employment (81,000 jobs from the two thirds of LGS firms expected to survive). It has formed a significant element in our policies to help small firms. The changed terms for the seven months extension, a 70 per cent guarantee and even more the five per cent premium, have resulted in a major cut back in the numbers of guarantees issued to below one third of the previous level. My recommendations would aim at both reducing the likely cost, and retaining a scheme that will be of interest both to the firms we are seeking to help and to the banks, whose co-operation is essential.

7 I would suggest therefore a scheme in which the premium would be reduced, while at the same time tightening up the other points which we identified in the reviews of the Scheme. The main features of such a scheme would be:

i 70 per cent of loan guaranteed (as now);

ii 3 per cent premium;

iii only those unable, as opposed to unwilling, to provide security for conventional bank lending to be eligible;

iv a minimum requirement for information in a standard form (a business plan) to be provided to the bank for its appraisal, prepared with a qualified accountant; this would be a basic discipline for applicants that would enable their basic assessments to be cross questioned; firms unwilling to provide this would be ruled out;

v minimum requirement for regular quarterly information, agreed by a qualified accountant, to be provided to the bank so that the original plan could be properly monitored; banks and businesses would be expected to use this early warning as a trigger for closer involvement with the business, using other sources of advice and assistance this information would be required for at least the first 2 years;

vi strong encouragement to use other sources of outside advice and technical expertise including the counsellors of our Small Firms Service.

8 It is difficult to predict the take up of such a scheme or likely failure rate. Although some improvement may be achieved with these changes, it is not within our control and the estimated 1 in 3 failure rate of the pilot scheme could continue. Cost estimates for a three year scheme, based on a take up of £100 million per annum and a range of failure rates are:

	1985/6 £m	86/7 £m	87/8 £m
1 in 2½	3.3	14.8	18.8
1 in 3	2.5	11.8	15.0
1 in 5	1.5	6.0	7.7

9 I should say that I have not had a chance, for obvious reasons, to discuss these points with Norman. The position is, however, clear: there is no provision within the DTI programme for an extension to the scheme. But the consequences of ending the Scheme will themselves cause us great difficulty, politically and in terms of our commitment to small firms. That commitment, and the need for it, was amply demonstrated in last Thursday's conference debate. I hope that we may begin therefore to consider whether changes in the Scheme, of the type I have described, make it desirable to proceed with a new scheme for which provision would be made out of the contingency reserve.

10 I am copying this letter to the Prime Minister, other members of E(A), and to Sir Robert Armstrong.

Yours ever,

David

DAVID TRIPPIER

SUBJECT

cc Master Ops. A/P amend file ref on these.

file

MFJ

CONFIDENTIAL

cc Cabinet
Law Officers
Chief Whip
Paymaster Gen
RTA.

10 DOWNING STREET

THE PRIME MINISTER

Personal Minute
No. M12/84

MINISTERS IN CHARGE OF DEPARTMENTS

We have been keeping under review the administrative and legislative burdens placed on business by existing legislation and regulations.

At the same time it is important that we should, in considering proposals for new policies or regulatory measures, be aware of their implications for business, and in particular for small firms.

I should therefore be grateful if all Ministers in charge of Departments would take account, in preparing new proposals, of their administrative and legislative implications; would consider how the potential burdens, particularly on small firms, may be minimised; would consult the Department of Trade and Industry when the imposition of new burdens is thought to be inescapable, and would draw this to the attention of colleagues before final decisions are taken.

Margaret Thatcher

9 October 1984

CONFIDENTIAL

Ell

Pl type for PM's signature

AT 8/10

10 DOWNING STREET

From the Private Secretary

Prime Minister

I have one suggestion on RTA's minute. Administrative and legislative burdens are not just a problem for small firms though they find them more difficult to cope. I have suggested amendments to your minute which generalise the motivation

Agree RTA's proposals and his minute as amended?

AT

5/10

Ref. A084/2664

PRIME MINISTER

DTI

Administrative and Legislative Burdens on Small Firms

At your meeting on 24 July, I was asked to consider:

(1) whether the Cabinet Office machinery was able to scrutinise adequately the impact on regulation of Community legislation; and

(2) how best papers to Cabinet Committees could bring out the impact of policy proposals on regulation and small firms.

2. On the first point, the Official Committee on European Questions has sufficiently wide terms of reference and representation to enable it to scrutinise adequately the impact on industry of regulations stemming from Community legislation. Indeed, Commission proposals in the industrial area form well over one-half of the Committee's work. But it could with advantage give more systematic attention to the potential effects of Community legislation on British industry. Departments have already been asked to give particular thought to the possible impact of Commission proposals on small firms and to press for appropriate relief in Brussels. In future they will also be required to include a separate assessment of the likely effect of draft Community legislation on British industry in all papers that come forward to the Official Committee on European Questions. Where these effects are particularly significant it may sometimes be more appropriate for the issues to be considered in the relevant Sub-Committee of the Ministerial Steering Committee on Economic Strategy than in the Ministerial Committee on European Questions: we shall keep a careful look out for such cases.

3. On the second point, I believe that the best course would be for you to send a minute to all Ministers, inviting them to take account, in preparing new proposals, of their administrative

and legislative implications for small firms, to consider how they may be minimised, to consult the Department of Trade and Industry about them and, if they conclude that some additional burden for small firms may be involved, to draw this to the attention of colleagues before final decisions are taken.

--- 4. I attach a draft minute.

Approved by
ROBERT ARMSTRONG
and signed in his absence

5 October 1984

DRAFT MINUTE FROM THE PRIME MINISTER TO
ALL MINISTERS IN CHARGE OF DEPARTMENTS

We have been keeping under review the administrative and legislative burdens placed on ~~small firms~~ business by existing legislation and regulations.

2. At the same time it is important that we should, in considering proposals for new policies or regulatory measures, be aware of their implications for ~~small~~ businesses, and in particular for small firms.

3. I should therefore be grateful if all Ministers in charge of Departments would take account, in preparing new proposals, of their administrative and legislative implications ~~for small firms~~, would consider how the potential burdens, particularly on small firms, may be minimised, would consult the Department of Trade and Industry when the imposition of new burdens is thought to be inescapable, would draw this to the attention of colleagues before final decisions are taken.

10 DOWNING STREET

Prime Minister (1)

To note that the Commission are trying out bring down the real value of the VAT exemption for small businesses.

Most other EC countries have tiny exemptions combined with simplified procedures for calculating tax due.

Agree the Chancellor's line?

AT
5/10

No matter what happens, we are NOT going to change the limit. The Commission must be told to drop the matter now

FILE DG

cc: DT

10 DOWNING STREET

THE PRIME MINISTER

26 September, 1984

Dear Mr. Mendham.

I was glad to hear about the proposal to hold the International Small Business Congress in London in October 1986.

In common with many other national Governments, we are keen to encourage the development of a strong and viable small firms sector in this country. The 1986 International Small Business Congress should provide an excellent opportunity to focus attention on the problems and aspirations of the international small business community and to build further on progress already made.

I welcome the proposal to bring the Congress to London and would like to wish it every success.

Yours sincerely

Margaret Thatcher

Stan Mendham, Esq.

RJ

Prime Minister (3)

Letter of support attached, for signature if you agree.

DMB
25/9

PRIME MINISTER

As you may already know it is proposed to hold the 13th International Small Business Congress in London in October 1986. The Congress is an annual meeting of delegates from all over the world to discuss issues concerning small businesses and is considered to be the premier international event of its kind. Those attending include Government Ministers, academics, bankers and representatives from small firms organisations. I addressed the 10th Congress which was held in Singapore in September 1983 and shall be speaking again at this year's Congress which takes place in Amsterdam from 24-26 October.

2. An International Steering Committee consisting of representatives of small firms organisations is responsible for choosing the Congress each year. This is normally decided upon two years in advance and the Committee needs to be satisfied that the proposed host-country has (i) the support of its own Government, (ii) the financial backing to stage the event, (iii) a suitable venue and a firm date. The UK's representative on the International Steering Committee is Mr Stan Mendham of the Forum of Private Business, a small firms representative organisation. He is also a member of the UK Steering Committee for the 1986 Congress, which is chaired by Sir Charles Villiers.

/.....

3. The Committee has asked whether Mr Mendham could take to the Amsterdam Congress next month a message of support from the UK Government for the proposed 1986 Congress. Your endorsement of this proposal, in the form of a letter to Mr Mendham, would, I believe demonstrate to the International Steering Committee HMG's support for holding the Congress in London in 1986. If you are content with this, the enclosed draft letter to go to Mr Mendham under your signature should be suitable.

4. Kensington Town Hall is a possible venue for the 1986 Congress, which is scheduled for 19-22 October. The themes on this occasion will be 'Investment' - both human resources and financial flows. NatWest have agreed to underwrite the cost of the Congress, which is to be covered by delegates' fees. I have already written to Michael Alison to see whether you will be available to perhaps address the closing session of the Congress.

D.T.

25 September 1984

DAVID TRIPPIER

Enc.

DRAFT LETTER FOR THE PRIME MINISTER TO SEND TO

Stan Mendham Esq
Forum of Private Business
Ruskin Chambers
Drury Lane
Knutsford
Cheshire WA 16 6HA

I ~~am pleased~~ was glad to hear ~~that it is proposed~~ about the proposal to hold the International Small Business Congress in London in October 1986.

In common with many other national Governments, we are keen to encourage the development of a strong and viable small firms sector in this country. The 1986 International Small Business Congress should provide an excellent opportunity to focus attention on the problems and aspirations of the international small business community and to build further on progress already made.

I welcome the proposal to bring the Congress to London and would like to wish it every success.

Prime Minister (2)
To be aware of this circular

AT 4/9

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

4 September 1984

Dear David

CIRCULAR ON INDUSTRIAL DEVELOPMENT

The Prime Minister has recently expressed considerable interest in what can be done to simplify the burdens on small firms. In this context, she may wish to see a copy of the attached DOE circular on industrial development, which is being published today. This urges local planning authorities to give a very high priority to industrial applications, and encourages the good practices already adopted by many authorities in dealing with such applications. The Circular's advice applies throughout to developments by small firms as much as to other firms of industrial development, but there are specific references to small firms (in paragraphs 4, 7, 13 and 15).

The Circular is being issued with a booklet ("Planning Permission - A Guide for Industry") designed to give industrial developers guidance on how to apply for planning permission. Perhaps you would let me know if you want to see a copy of that.

I am sending a copy of this letter and the circular to Callum McCarthy.

Yours ever
Alan

A H DAVIS
Private Secretary

David Barclay Esq

Circular 16/84
(Department of the Environment)
Circular 34/84
(Welsh Office)

Joint Circular from the

Department of the Environment
2 Marsham Street, London SW1P 3EB

Welsh Office
Cathays Park, Cardiff CF1 3NQ

Sir

4 September 1984

Industrial Development

Introduction

1. Encouragement of industrial development is vital if economic recovery is to be sustained. Both the nation as a whole and individual local authorities benefit from the swift and positive handling of planning applications for industrial development. Local authorities have already done a great deal to give priority to such applications and their contribution in providing infrastructure and facilitating land assembly is also important. The purpose of this Circular is to encourage the continuation and spread of good practice, and to suggest how local authorities might respond to some recent trends such as high technology development.

Scope

2. This Circular is primarily directed at applications relating to developments for the production of goods and services, including ancillary developments such as warehousing. However, the advice in the Circular should be assumed to be applicable to other types of business unless this would cause harm in planning terms, and no arbitrary distinctions between different types of development should be made in applying it.

Existing Advice

3. This Circular should be seen as an expansion of the advice in Circular 22/80 (Welsh Office Circular 40/80), which sets out the Government's general aims and policies on development control. It does not detract from that Circular in any way, or from the need for speed and efficiency in giving planning decisions. Circular 22/80 also asks local planning authorities always to grant planning permission, having regard to all material considerations, unless there are sound and clear-cut reasons for refusal; and the Government welcomes the fact that some 90% of applications for planning permission relating to manufacturing industry currently receive permission. That Circular's advice remains, including the specific advice on small businesses, enforcement and discontinuance (paragraphs 12 to 14, 15 and 16 and Annex B); and the specific commitments to preserving agricultural land, and protecting National Parks, Green Belts and other areas of amenity or special interest (paragraph 4).

Handling Applications

4. The Departments are making available to local planning authorities for issue to industrial developers, free of charge, an initial supply of a new booklet—"Planning Permission: A Guide for Industry". This replaces an

earlier publication of the same name by the National Building Agency and is designed to give industrial developers detailed up-to-date guidance on how to apply for planning permission. It also gives a brief outline of other facilities including financial incentives available to industrialists and other controls (such as building controls) relevant to them. Planning authorities, as partners in the development process, are asked to make that guidance effective in practice, and to encourage and respond constructively to early informal approaches by the would-be developer, in confidence if need be, where he wishes to explore the basis for a successful application. Attention should be drawn to the booklet and its content, and authorities should also consider what material—including structure and local plans, development briefs, informal supplementary planning guidance, and material on other policies and facilities—they might offer the developer at an early stage. Local authorities should help and advise the developer to seek in good time any other statutory consents, other advice, and any loans or grants (such as those referred to in the booklet) which may be needed to bring development proposals to fruition. They may also wish to devise specific handling strategies for applications, potential applications and other types of enquiries involving industrial development. DOE Circulars 22/80 and 28/83 (Welsh Office Circulars 40/80 and 23/83) give further useful advice on the handling of applications, and what applicants can do to help themselves.

Priority

5. Circular 22/80 asks authorities to give priority to handling those applications which in their judgment will contribute most to national and local economic activity. This means giving industrial applications a very high priority, particularly—to speed job creation—where the user of the development is specified and would be ready to move in as soon as the development was completed. Applicants who have cleared the way beforehand through informal discussions with their planning authority may reasonably hope to receive a rapid decision on their formal application. For its part the Department will give priority to the determination of planning appeals on developments which will provide jobs, and to replies to references on "departure" cases involving priority applications.

Plan Policies

6. Structure and local plans have a central part to play in facilitating appropriate industrial development. There may be potential for conflict between approved and adopted plans, perhaps evolved some years ago, and the present needs of industry. At a time when technology and other requirements of modern industry are changing rapidly, plans which are realistic, up-to-date and make adequate provision for current and likely future industrial development in the light of the circumstances prevailing in the area will minimise this conflict and will also be an important source of information for industry. Such plans will enable appropriate development to proceed swiftly, and minimise "departure" references with their special (sometimes time-consuming) procedures.

7. Local authorities will have their own arrangements for keeping up to date with these rapid changes, and for using the information on the supply and demand for sites of particular kinds which will be available from a number of sources—such as the technical and property press, government publications, specialist research and the development industry itself. Authorities will also know the value of keeping in touch with local firms, local chambers of commerce and the CBI. Against this background they should see to it that the plans reflect an informed view of the scale,

diversity and distribution of sites which may be required for industrial development. They may wish to include policies for particular types of industrial or commercial development (eg the expansion of existing firms, development involving small firms, major industrial and energy development with special site requirements, hazardous development or warehousing). Some local planning authorities may prefer to plan simply for areas where activities likely to create employment can be accommodated; this practice has much to commend it. Where substantial development is envisaged in a structure plan, a local plan can also be particularly useful to indicate to developers where industrial development is likely to be favoured. In all circumstances, it is particularly important to keep under review the relevance and effectiveness of approved development plan policies, and to propose alterations where necessary.

8. When framing development plan policies and deciding on the appropriate levels of provision, and when considering whether an existing plan already caters adequately for industrial development, planning authorities should aim to ensure that, within the constraints of national policies and in line with the policies in structure plans, there is sufficient land available for industry, and that the supply of sites allows developers to choose on the basis of their individual needs between sites of different sizes with different facilities. Sites for industrial development should, as far as possible, be readily adaptable to the user's practical needs. Plans may also provide specifically for "bad neighbour" industry (eg those listed in the Special Industrial Groups in the Use Classes Order) to reduce the problems which such firms might otherwise face in finding sites.

Determining Applications

9. If these guidelines are followed, decisions on individual planning applications should normally be straightforward, unless a particular developer's proposal raises complex planning objections. But planning applications for industry, as for all types of proposed development, should always be considered on their merits having regard to the development plan **and** other material considerations. In the modern economy, it is not always possible to anticipate in the development plan all the needs and opportunities which may arise. Thus where a developer applies for permission for a development which is contrary to the policies and proposals of an approved development plan this does not, in itself, justify a refusal of permission (although there will be a general presumption against inappropriate development where losses of countryside, Green Belt and agricultural land are at issue). While the decision will obviously be more difficult than in cases which conform to development plan policies, the onus nevertheless remains with the planning authority to examine the issues raised by each specific application and where necessary to demonstrate that a particular proposal is unacceptable on specific planning grounds. Further advice on the handling of applications which depart from development plans is contained in DOE Circular 2/81 (WO 2/81).

10. While applications should not be refused merely in order to try and steer the development, which may have particular locational needs, towards locations specified in development plans, the existence of comparable, available, and appropriate but unused or vacant sites and premises is nevertheless an important consideration. This is especially so when an application involves development on previously non-industrial land and for which there is adequate land in specified locations in inner urban areas

within a reasonable distance of the preferred site. Planning authorities will wish to avoid the proliferation of unused planning permissions for industrial development, especially where this would lead to underuse or duplication of expensive infrastructure provision, or the unnecessary spread of urban development. Nor should applicants expect to obtain planning permission on sites outside specified locations on the grounds that, because they are not in such locations, such sites cost them less to obtain and develop.

Industrial Development within and around Urban Areas

11. Full use should be made of potential sites and existing premises in inner cities and other urban areas for industry as for other forms of development. This can reduce unnecessary expansion of development into the countryside and help to promote economic and social regeneration in older urban areas. Many urban areas can, especially with concerted local improvements, offer good surroundings to industrialists, and have many other advantages. The land registers established in England and Wales under the Local Government Planning and Land Act 1980 show that unused or underused sites in public ownership of one acre or more in size amount to about 112,000 acres; roughly half has moderate or high potential for development. Some of this land is suitable for industry. But some land will also be suitable for other purposes such as housing. Where this is so, authorities will have to weigh the conflicting needs, but they should avoid reserving land for one purpose if there is no realistic prospect of using it for that purpose for some time and there are other valid needs which the site might meet more immediately.

12. Local authorities have a major part to play in providing sites from the land which they hold, but they might also invite statutory undertakers and others to review their holdings for the same purpose. The policy of the Secretaries of State is to encourage the release of sites on the land registers for new development or renewed use, if necessary by exercising their power of direction to secure disposals. In addition, priority will continue to be given to applications for Derelict Land Grant which, following reclamation, will lead on immediately to industrial, commercial, housing or other development. Urban Development Grant will continue to be available for private sector schemes which will promote the economic or physical regeneration of inner urban areas by channelling into such areas private sector investment that would not otherwise take place. Local authorities in England in districts which have been designated under the Inner Urban Areas Act 1978, or which have Enterprise Zones, have been invited to submit further schemes which meet the UDG criteria. In Wales, all districts are eligible to submit UDG applications. Appropriate planning and development policies and clear long-term objectives which are capable of fulfilment in the modern economic climate can help secure the release of all categories of land, including that in private sector ownership.

13. While it may be right to prevent expansion of some industries within residential areas—and to plan for moving noxious or bad-neighbour ones out—light industry and many forms of small business can often be accommodated within residential areas without creating unacceptable traffic, noise or other adverse effects, and without detriment to the amenity of the area. Indeed the definitions in the Use Classes Order reflect this. Local residents may be worried at the prospect of such industrial, or indeed any form of development, and may need particular reassurance and explanation, but it may often be possible to frame conditions which will enable planning permission to be given and make the development more acceptable to them. At the same time, all authorities will recognise that the

prospects for bringing into use vacant buildings and sites in any area could be jeopardised if unrealistic and rigid restrictions are imposed—or maintained—on the types of development acceptable or if unnecessary conditions restrict the way in which the permission can be used (see also paragraph 17 below).

14. Not all industrial land needs can necessarily be met from within existing built-up areas. The orderly release of new land for industrial development will also need to be considered, in the context of development plan preparation and sometimes also in response to individual proposals for which there is no adequate alternative provision. Such proposals—and their consequences—must be consistent with existing policies for the protection of agricultural land, Green Belts, and other established planning policies.

Development in Rural Areas

15. In rural areas provision should be made, appropriate to the needs of each area, for industrial development which can be accommodated without serious planning problems. Many small-scale industrial activities can be fitted into rural areas, providing much-needed local employment opportunities and helping to retain a working population. Paragraph 13 of DOE Circular 22/80 (WO 40/80) emphasises that disused farm buildings are often suitable for conversion or adaptation without damage to their surroundings, as are other rural buildings, and such development may give rise to no more traffic or disturbance than the former use of the premises. Conversion to a new use will usually be preferable to allowing buildings to remain unused or become derelict and each case should be considered on its merits. However, once such development has been carried out, subsequent applications in relation to those premises—particularly those including major expansion or those in connection with uses of land which are not readily accommodated—will require careful examination to see whether they create problems for local amenity. The Council for Small Industries in Rural Areas operates a grant scheme to encourage rural industrial developments. (In Wales, the Welsh Development Agency and Mid Wales Development operate a similar scheme.) Within Green Belts the advice in MHLG Circular 42/55, reprinted as an annex to DOE Circular 14/84, applies.

16. When dealing with applications relating to minerals extraction and ancillary development other factors, such as the national need for the mineral and economic constraints on the industry, will need to be considered.

Conditions on Planning Permissions

17. In order that planning permission can be given, it may be necessary to impose conditions designed to make a proposed development acceptable in its local context. Conditions can serve a valuable purpose in this respect, but they must be confined to what is strictly necessary. They must be readily removed, upon application, when circumstances no longer warrant their retention. DOE Circular 22/83 (WO 46/83) deals with the subject of conditions and Section 52 agreements. More extensive advice on conditions will be given in a general circular on this subject.

High Technology Industries

18. Firms which use the new technologies or make products that further the spread of technological advance (eg in microelectronics or biotechnology) have a vital role in industrial regeneration. The Secretaries of State accordingly attach great importance to the sympathetic treatment of such uses in development control. The preceding advice in this Circular

applies equally to the new technologies as to other industries, but the new technologies also have special planning characteristics. Local planning authorities need to be alive to their needs. A recent analysis of such firms, their needs and the planning issues they raise is provided in the National Development Control Forum's publication "High Technology Development". The Department of the Environment is currently undertaking further research in this area.

19. Many such firms' operations are clean and quiet. In many cases their premises may resemble research laboratories or even offices much more than traditional "smoke stack" industry. They can be good neighbours to service industry, offices or even housing, depending on the bulk of the building and the volume of traffic generated. Authorities should not insist therefore on confining this type of development to traditional industrial areas. Where necessary, appropriate policies should be considered for inclusion in development plans; and in all cases such proposals should be considered on their merits, even where they appear to conflict with approved and adopted plans. It is often important that the terms of planning permission for such development are not unduly restrictive. The Annex gives advice on how this can be done.

Conclusion

20. The aim of this Circular is to promote a sound and efficient balance between economic and environmental considerations in facilitating industrial development. It is intended to help ensure that planning policies promote industrial regeneration without detriment to environmental or other objectives.

21. This Circular is not considered to have significant expenditure or manpower implications for local authorities.

We are, Sir, your obedient Servants,

I H NICOL, *Assistant Secretary*

A E PEAT, *Assistant Secretary*

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County Councils } in England and Wales
District Councils }
London Borough Councils
Urban Development Corporations
The Council of the Isles of Scilly
The Town Clerk, City of London
The Director-General, Greater London Council
The National Park Officer
The Peak Park Joint Planning Board
The Lake District Special Planning Board

[DOE PLUP 3/737/11]
[WO P96/11/07 pt. 3]

ANNEX

PLANNING PERMISSIONS FOR HIGH TECHNOLOGY INDUSTRIES

1. High technology industries are essential to the country's future prosperity and local planning authorities should ensure that their needs are properly catered for in the exercise of development control. Conventional forms of planning permission, or routine conditions attached to consent, can inhibit operational flexibility or pose problems for subsequent lessees. The principal use on many such sites is likely to be industrial. It may be accompanied by other uses such as warehouse, storage, research or office use. Where these are incidental to the principal use, and regardless of the proportion of the site or building which they occupy, they will be ancillary activities which do not need to be specifically permitted or restricted. Any variations in the extent of the principal or ancillary uses on the site will not normally change the overall use or involve a material change requiring planning permission. If an ancillary activity actually becomes the primary use, however, planning permission will be needed.

2. Planning applications and permissions can often be simply expressed in terms either of the specific use or of a single class of the Use Classes Order (often Class III or Class IV). In determining whether a particular use is ancillary or requires specific permission, local authorities should avoid rules of thumb relating to proportions of floorspace (such as a 10% limit) or employment, and concentrate instead on the more fundamental test of the functional relationship between the uses involved.

3. Conditions restricting ancillary activities, or changes of use within a use class, ought to be avoided for high-technology (except where they are clearly necessary to preclude uses giving rise to hazard, noise or offensive emissions) as they may obstruct operational requirements. It will not normally be necessary to rely on such conditions to preserve the amenity of a high-technology estate; the ordinary controls over material changes of use will prevent the introduction of uses which would have a substantially adverse impact and a landlord marketing an estate for high technology firms will restrict the tenants in his own interest. But if high-technology occupiers cannot be found to fill an estate it is better for ordinary light industry to move in than for buildings to stand empty.

4. Developers catering for the prospective needs of high-technology occupiers may provide buildings suitable for either industrial or office uses. In such cases it may be acceptable for the planning permission to be expressed in terms of a number of alternative uses. Although planning permission may be granted for alternative uses, once the first occupier moves in that alternative permission does not extend to subsequent changes of use. The owners, however, may wish to be able to relet the property for one of the other uses originally permitted, and to have the planning position confirmed. In such a case the owners may apply—perhaps several years in advance—for permission to change the use of the premises, so as to widen the range of potential occupiers. The Secretaries of State would expect local planning authorities normally to grant permissions promptly on such an application, subject to an appropriate time-limit for implementation, when the use applied for is one of the original alternatives permitted; and they and their Inspectors will follow this policy in appeal decisions.

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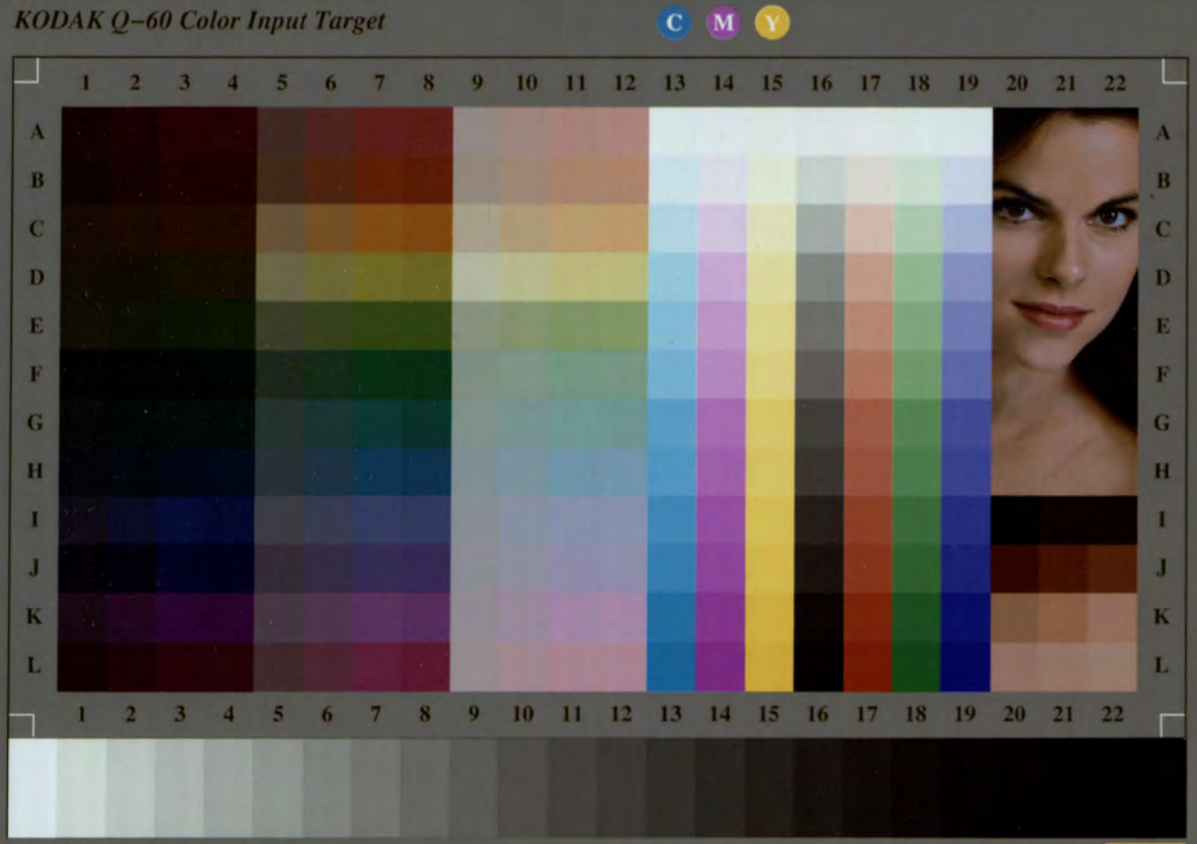
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