

10 September 2004

Ms Catherine Fergusson
Subordinate Legislation Committee
Room 5.16
Parliament HQ
George IV Bridge
EDINBURGH
EH99 1SP

Dear Ms Fergusson,

SUBORDINATE LEGISLATION COMMITTEE

SFDF Response To Inquiry Into The Regulatory Framework In Scotland

On behalf of the Scottish Food and Drink Federation (SFDF) I would like to thank you for the opportunity to comment on the Subordinate Legislation Committee's consultation paper which forms the basis of its inquiry into the Regulatory Framework in Scotland.

Background

As you will be aware, SFDF represents the common interests of food and drink manufacturing industry. We work to improve the environment in which the individual companies who make up the industry operate: be it legislative, economic, social or political. In so doing we aim to help maximise the competitiveness and profitability of the industry.

59,300 people are employed in the food and drink sector in Scotland (54,000 in food industry alone) – some 11.8% of total British food and drink sector employees. The industry in Scotland also accounts for annual sales of around £4.2 billion (exc. whisky).

Comments

The burden of regulation is a key concern of the Scottish Food and Drink manufacturing industry. SFDF believes that where regulation is being considered as an option, policy makers must:

- Demonstrate that it is a necessary addition to the existing regulatory framework.
- Ensure that the regulation is technically competent.
- Ensure that it is clearly understood by stakeholders, namely those that have to comply with the regulation and those who are charged with enforcement.

- Ensure that a proportionate response to regulation is adopted.
- Develop regulation in a transparent manner with adequate and meaningful stakeholder consultation and involvement throughout the process.

The following comments have been included under the title headings which appear in the consultation document.

Regulatory Impact Assessment (RIA)

As the consultation paper observes, RIA's can often give the impression that they have been prepared as a "bureaucratic add-on" rather than as an integral part of the policy-making process (Page 14). The paper also notes, "IRIS officials acknowledged that, on occasion, a RIA has not been produced when it ought to have been and has only been produced 'after the event'" (Page 14).

SFDF agrees that the RIA should be an integral part of the policy-making process in order to establish the risks, costs and benefits of proposed regulation and to ensure that a proportionate approach to regulation takes place. The burden of regulation should generate sufficient benefit to justify that particular approach and should not be more burdensome than needs be.

To ensure optimum effectiveness, thorough use of a RIA should take place in the early stages of policy development when options are being considered, prior to decisions on proposed regulation being reached. Carrying out a RIA 'after the event' is of little worth and is a questionable use of the resources. Doing an RIA on options 'under consideration' may result in an alternative to regulation being identified.

In order to prevent the RIA becoming a policy 'after thought', SFDF believes that it should be made a statutory requirement of the legislative process. When an RIA is carried out, its findings should be made openly available and clarify why a particular decision has been taken and why other options have been dismissed. SFDF also supports the view expressed by CBI Scotland that policy makers directly involved with the proposed regulation should not prepare the RIA and that those drawing them up should be independent in this respect.

Role of IRIS

Regardless of whether the IRIS unit remains located within the Enterprise, Transport and Lifelong Learning Department of the Scottish Executive or is moved to the office of the First Minister, SFDF believes that it needs to have sufficient resources and powers in order to improve regulatory quality. At present, the IRIS unit is insufficiently resourced to carry out its current remit. The "consultative, advisory, cajoling approach" which IRIS officials refer to may be insufficient in terms of ensuring that a RIA is carried out by an Executive department or to prevent proposals which do not meet the required standards for better regulation from being implemented.

Therefore, equipping the IRIS unit with powers similar to those located within the Cabinet Office to ensure Executive departments fully comply with the RIA process and deliver better regulation is worth considering. However, if it is to be effective, it needs to have adequate resources in order to carry out this new role. If relocating the unit to the office of the First Minister would assist in ensuring Executive departments are complying fully with the RIA process, then this should be considered.

Regarding the proposal to give IRIS a wider strategic role, ensuring that all new regulation meets the required standard for good regulation and to give it powers to establish programmes for simplification, reform and consolidation of existing regulation, SFDF believes that any moves to broaden the remit of IRIS must be accompanied by an increase in resources so that the ability to perform its functions – both new and existing – are not affected.

SFDF endorses the position advocated by CBI Scotland that the IRIS unit should take steps to quantify the overall burden of business regulation and the changes in this year to year.

Easily Understood

There should be a general requirement that the text and structure of any regulation is written in plain language and be simple to use and understand. However, caution must be taken to ensure that in striving to achieve this, the regulation does not become ambiguous, lacking in certainty and open to interpretation. In cases where the regulation cannot be phrased using simple language, guidance which is both easy to use and understand should accompany the regulation.

Role of the Parliament

SFDF supports the view of CBI Scotland that both the Parliament and the Executive must see legislation and regulation as a last resort, rather than as an automatic response to a policy objective or political problem.

The consultation paper suggests a possible reform of the Subordinate Legislation Committee's remit to incorporate new roles specific to regulatory reform. Any reforms which seek to improve; the quality of regulation, compliance of the RIA process and the consolidation and simplification of existing regulation should be welcomed and considered. However, if any such changes are to be made, it is important that the roles of the Committee are clearly defined and understood and do not conflict with those of the IRIS unit in order to prevent duplication of effort and ambiguity. Again, if the Committee is to be given a wider remit, this should be accompanied by the necessary resources so that it can perform both new and existing roles effectively.

I trust that these comments will be taken into account and that SFDF will be kept informed of the outcome of the consultation process and further developments in this area.

Yours sincerely,

Flora A McLean
Director

The Food and Drink Manufacturing Industry

The Scottish Food and Drink Federation (SFDF) represents the food and drink manufacturing industry in Scotland.

The food and drink manufacturing industry in Scotland has a gross output of around £6.5bn and accounts for circa £2.5bn of total UK exports and 11.8% of the UK sector workforce.

SFDF is a devolved division of the Food and Drink Federation (FDF), the voice of the UK food and drink manufacturing industry. As the largest manufacturing sector in the UK, food and drink manufacturers employ over 500,000 people and have a combined annual turnover of in excess of £67bn. UK food and drink exports in 2003 were over £9bn.

The following organisations are members of the Food and Drink Federation:

abim	Association of Bakery Ingredient Manufacturers
ACFM	Association of Cereal Food Manufacturers
AMPM	Association of Malt Product Manufacturers
BCA	British Coffee Association
BCCCA	Biscuit, Cake, Chocolate and Confectionery Association
BOBMA	British Oats & Barley Millers Association
CFA	Chilled Food Association
CIMA	Cereal Ingredient Manufacturers'
FA	Food Association
FOB	Federation of Bakers
FPA	Food Processors' Association
GPA	General Products Association
ICF	Ice Cream Federation
IDFA	Infant and Dietetic Foods Association
MSA	Margarine and Spreads Association
MG	Meat Group
NABIM	National Association of British and Irish Millers
NACM	National Association of Cider Makers
OHG	Out of Home Group
OFDMLG	Organic Food and Drink Manufacturers Liaison Group
PFMA	Pet Food Manufacturers' Association
SB	Sugar Bureau
SG	Seafood Group
SIBA	Society of Independent Brewers
SMA	Salt Manufacturers' Association
SNACMA	Snack, Nut and Crisp Manufacturers' Association
SPA	Soya Protein Association

SSA Seasoning and Spice Association
UKAFFP UK Association of Frozen Food Producers
UKAMBY UK Association of Manufacturers of Bakers' Yeast
UKTA UK Tea Association
VG Vegetarian (Meat Free) Group