



**Northern Ireland  
Assembly**

**COMMITTEE FOR THE ENVIRONMENT**

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**Organisation: (if applicable) RSPB Northern Ireland**

**Date: 7 August 2015**

**Introductory comments**

RSPB Northern Ireland welcome the opportunity to comment on the Environmental Better Regulation Bill. We have been asked to structure our response so as to address specific clauses or schedules of the Bill. Our main consideration is that the regulatory approach this Bill facilitates will truly better, in the sense that environmental protections are better enforced whilst administrative burdens on business are reduced. Our comments are therefore general in nature. The RSPB is supportive of the principles of Better Regulation in NI. Indeed the RSPB is a founding member of the Aldersgate Group, a pan UK alliance of business, civil society and individuals who champion better regulation.

The OECD (2010) define regulatory policy as *“an explicit, dynamic, and consistent whole-of-government policy to pursue high quality regulation”*.<sup>1</sup> However, in practice such policies tend to differ considerably in the extent to which emphasis is placed on

improving the overall quality of regulation (i.e. better regulation) as opposed to simply reducing the overall quantity of regulation (i.e. deregulation).<sup>1</sup> The former approach essentially seeks to balance the costs and benefits of regulation in order to achieve better social, economic and environmental outcomes, whilst the latter approach focuses exclusively on reducing the costs of regulation to business. We are aware that the Westminster Government's approach to regulatory reform is focussed on deregulation. For this Bill to promote better regulation it must facilitate the right balance between simplification and effective environmental protection.

In terms of the costs of regulation to business, there are two main categories to consider: administrative costs (i.e. the costs of complying with regulatory information obligations, traditionally referred to as 'red tape') and policy (compliance) costs (i.e. all other direct costs to business associated with regulatory compliance obligations).<sup>ii</sup> These latter costs are closely related to regulatory stringency and essentially reflect political decisions regarding the policy objectives to be achieved.<sup>iii</sup> Until recently, much of the focus at both the UK level and EU level has been on administrative simplification, such as under the Action Programme for Reducing Administrative Burdens in the EU (2007-2012).<sup>iv</sup> The aim of such programmes has been to reduce unnecessary administrative costs at the same time as maintaining and/or improving regulatory standards. However, the European Commission has recently come under pressure to extend this programme to also include targets for the reduction of policy (compliance) costs, thus putting regulatory standards at risk.<sup>v</sup> We are aware that the Westminster Government no longer recognises this key distinction when assessing the impact of its regulatory measures. We believe, for Northern Ireland, this distinction must remain in place. While it is appropriate for administrative costs to be minimised, compliance with environmental law will always restrict some activities. It is the job of decision makers to decide this.

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<sup>1</sup> Regulation can be broadly defined as the "imposition of rules by government, backed by the use of penalties that are intended specifically to modify the economic behaviour of individuals and firms in the private sector". Government regulation of economic activity is generally designed to correct market failures, to deliver public goods, or to achieve distributional objectives. See: <https://stats.oecd.org/glossary/detail.asp?ID=3295>

A third category of costs sometimes considered are so-called ‘irritation’ costs; evidence suggests that business and farming perceptions of the costs of regulation tend to be linked closely to subjectively felt ‘irritation’ with regulation, despite the fact that such perceptions are rarely correlated with actual administrative costs.<sup>vi</sup>

A further consideration for simplification and devolving powers of inspection relates to the use of voluntary approaches to policy and enforcement. The measures in this Bill could conceivably have implications for the way legislation is enforced or monitored. There has been much enthusiasm across some European jurisdictions for the enhanced use of voluntary approaches in preference to mandatory approaches to both policy delivery and enforcement. We believe that this Bill should not be used to replace mandatory inspection regimes with voluntary approaches unless the voluntary schemes are properly designed with effective oversight, targets and governance.

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<sup>i</sup> OECD. (2010). *Better Regulation in Europe: United Kingdom*. OECD Publishing.

OECD. (2010). *Regulatory Policy and the Road to Sustainable Growth*. Draft Report.

<sup>ii</sup> OECD. (2014). *OECD Regulatory Compliance Cost Assessment Guidance*. OECD Publishing.

<sup>iii</sup> Hampton, P. (2005). *Reducing Administrative Burdens: Effective Inspection and Enforcement*. HM Treasury/HMSO, London.

<sup>iv</sup> European Commission. (2012). *Action Programme for Reducing Administrative Burdens in the EU Final Report*. Commission Staff Working Document SWD(2012) 423 final.

<sup>v</sup> Department for Business, Innovation and Skills. (2012). *10 Point Plan for EU Smart Regulation*.

High Level Group on Administrative Burdens (2014). *Cutting Red Tape in Europe: Legacy and Outlook (Final Report)*.

<sup>vi</sup> OECD. (2012). *Measuring Regulatory Performance: A Practitioner’s Guide to Perception Surveys*. OECD Publishing.

Peck, F., Mulvey, G., Jackson, K., & Jackson, J. (2012). *Business Perceptions of Regulatory Burden*. Centre for Regional Economic Development: University of Cumbria, Carlisle.