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P.01349

PRIME MINISTER

Administrative and Legislative Burdens
on Small Firms

Although there has been extensive Ministerial correspondence on this subject since Mr Tebbit's report to you of 27 June and Mr Turnbull's reply on your behalf of 2 July, the most convenient basis for discussion would be the two most recent minutes from Mr Tebbit:

— FLAG A
— FLAG B

i. his minute of 19 July summarising the position on a range of specific issues affecting DoE, DTI, the Lord Chancellor's Department, the Treasury, DHSS, DEm and Home Office;

(Mr Tebbit concludes that there is not sufficient progress to justify a major announcement before the Summer Recess; he also raises the question of whether there should be a stronger unit within the DTI to look after small firms.)

— FLAG C

ii. his minute of 19 July on whether there should be an Enabling Bill to exempt small firms from all statutory requirements disproportionately burdensome to them.

(Mr Tebbit recommends against this but suggests instead that any new legislation brought before Legislation Committee should have a statement of its impact on small firms incorporated into the covering memorandum.)

— FLAG D

MAIN ISSUES

2. The main issues are:

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- i. should more be done to help small firms on the specific issues referred to in the minute of 19 July?
- ii. should there be a ^{! ? ? !} major announcement before the Summer Recess?
- iii. should there be an Enabling Bill?
- iv. should other action be taken to give more weight to the interests of small firms (eg a stronger unit in the DTI, a standard paragraph in papers for Legislation Committee)?

Specific issues

3. The ground to be covered (set out more fully in Mr Tebbit's minute of 19 July) is as follows:

DoE

Two new circulars to be issued, one on industrial development and the other on small firms, encouraging the "one-stop" philosophy. Can more be done (eg to reduce the burdens of local authority licensing)?

DTI

Should the announcement about re-packaging of DTI assistance (see Annex to minute of 19 July) go ahead before the Recess? (It appears to have only marginal relevance to helping small firms; the Chancellor thinks that it may have public expenditure implications but Mr Tebbit does not accept this.)

Lord Chancellor's Department

Is it enough to deal with problems of small firms as part of the overall review of delay in civil procedures in the courts?

Treasury

Is it enough to issue the new simple "starter package" for new employers in September?



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DHSS

There is a conflict of view between the Secretary of State for Social Services and the small business lobby (notably the National Federation of Self-Employed and Small Businesses) on whether Statutory Sick Pay is a significant burden for small firms. Who is right? Should anything be done?

DEm

Should the exemption for small firms from unfair dismissal requirements be extended? Mr King (letter to Mr Tebbit of 19 July) recommends against this on the grounds that the Government would be attacked for withdrawing established rights from employees and this would be undesirable politically and presentationally at this time.

— FLASE

Home Office

Is the Home Secretary right to conclude that regulation in his area (which may considerably affect the extent of local authority financing - see above) cannot be relaxed in favour of small firms because it is concerned with protecting the public (for example fire prevention, sex shops)?

Announcement before Summer Recess

4. The meeting is likely to agree that there is insufficient progress to justify a major general announcement about small firms before the Summer Recess (in effect only the new DoE circulars and the new Inland Revenue "starter package"). Presumably the right course is to make separate announcements about these at the most convenient time and try to ensure that they have maximum impact.

Enabling Bill

5. The main objection to the Enabling Bill is well set out in Mr Tebbit's second minute of 19 July. It would tend to create a "two-tier" economy, introducing a new distortion based on the

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size of firm. In particular it could well inhibit the growth of employment because of the sharp increase in overheads imposed by taking on a few employees in excess of the exemption threshold. The alternative approach, which the meeting may prefer, is to continue to look at specific issues on their merits, not seeking to create a new distortion in favour of small firms but rather to avoid unintended distortion against small firms by ensuring that regulatory activity does not impose burdens on them which are disproportionate to their size.

Other action to give more weight to the interests of small firms

6. Mr Tebbit makes two other suggestions for giving more weight to the interests of small firms:

- i. strengthen the Small Firms Unit in the DTI;
- ii. requiring that any paper for Legislation Committee about new legislation should contain a statement as to its impact on small firms.

7. On i. Mr Tebbit points out that having a few more civil servants in his department nagging other departments about the burdens on small firms and vetting the impact on small firms of new legislative proposals would have little effect unless other Ministers were prepared to place enough weight on this aspect of policy. There can of course be no presumption that small firms considerations should always take precedence. It may be, for example, that the public interest requires that there should be strict fire precautions even in small hotels as well as in large ones, and that public expenditure and manpower considerations require the introduction of Statutory Sick Pay even if it may involve extra work for small firms. All that can reasonably be done is to ensure that when decisions are taken the small firms aspect does not go by default. This must entail a readiness by all Ministers, not just DTI Ministers, to give due weight to this



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aspect of policy. If that can be done, there may be little or no requirement to expand the Unit in the DTI.

8. The key question is therefore to ensure that all Ministers do in fact bear in mind the interests of small firms. Mr Tebbit's suggestion at ii. about papers for Legislation Committee is designed to this end. He no doubt has in mind the existing requirements in paragraph 11 of "Questions of Procedure for Ministers" (copy attached to this brief). Papers for the Cabinet or Ministerial Committees already have to contain statements about finance, manpower, European Community obligations, accommodation problems, and the views of the Law Officers on any legal implications.

9. There are however some arguments against adding still further to the list of standard points which have to be covered. Mr Tebbit has separately suggested in a paper for the Ministerial Sub-Committee on Competition Policy (E(CP)(84)2) that Cabinet papers should "record in a separate paragraph the implications, if any, for competition of what is recommended". There is the risk that accepting these two suggestions from Mr Tebbit will open to door to a flood of further suggestions from other Ministers who wish papers to contain a statement about the impact on some policy area which they regard as particularly important. The present requirements in paragraph 11 of Questions of Procedure for Ministers can at least be defended as referring to comparatively hard matters such as resources, which can be quantified, and legal obligations, on which a clear view can be expressed. Assessing the implications of a proposal for policy in a particular area is much more judgemental.

10. If the suggestion for a standard paragraph in papers for Legislation Committee is not favoured, there might be some other ways of trying to ensure that Ministers give proper weight to the interests of small firms. One possibility would be a Prime Minister's Personal Minute calling on all Ministers to take account, in preparing new proposals, of the administrative and

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

HANDLING

11. You may wish to invite the Secretary of State for Trade and Industry to make some general comments at the outset and then suggest that the discussion might best be divided into:

- consideration of the specific issues summarised in Mr Tebbit's minute of 19 July
- consideration of the Enabling Bill and other issues about small firms generally discussed in Mr Tebbit's second minute of 19 July.

12. In the handling of specific issues you may wish to invite brief comments from the relevant Ministers as you work through the list. In dealing with the general issues you will wish to invite comments from the Secretary of State for Trade and Industry and those Ministers who may have some general views, for example the Secretary of State for the Environment and the Chancellor of the Exchequer.

represented by ←
W McFaulane

CONCLUSIONS

13. You will wish to reach conclusions on:

- i. whether any further action is required on the specific issues discussed in Mr Tebbit's minute of 19 July;
- ii. whether there should be an announcement before the Summer Recess;



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- iii. whether there should be an Enabling Bill;
- iv. what other action might be taken to give more weight within Government to the interests of small firms.

PLG

P L GREGSON

23 July 1984

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Extract from C(P)(83)5

Questions of Procedure for Ministers

11. Proposals involving expenditure or affecting general financial policy should be discussed with the Treasury before being submitted to the Cabinet or to a Ministerial Committee; and the results of those discussions together with the best possible estimate (or estimates, if the Department's figures cannot be reconciled with the Treasury's) of the cost to the Exchequer, should be indicated in the memorandum. Where proposals affect United Kingdom obligations or interests as members of the European Community this should be clearly explained. If proposals have manpower implications or may give rise to problems of recruitment, these should be clearly stated after consultation (in the case of manpower) with the Treasury. Attention should also be drawn to any accommodation problems, after consultation with the Property Services Agency. No memorandum should be circulated to the Cabinet unless any legal implications which it raises have been cleared, or at least clarified, with the Law Officers. The Cabinet Office will not normally accept a memorandum for circulation to the Cabinet or a Ministerial Committee unless these steps have been taken.

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