

DEREGULATION

Publication of the Burdens on Business Scrutiny Report and press comment about Lord Young's work in this area has created a major expectation that the Government is about to take action. The first chapter of MISC 114's draft White Paper makes clear we do have achievements to report, and we are tackling important issues such as Wages Councils.

Chapter 2 of the White Paper lists the Group's 62 proposals, these are tabulated in our Annex 1. Only 5 of the proposals can be classed as major new initiatives and only a further 12 as minor actions. Of the rest, 17 relate to new internal guidance or better information to the businessman and 24 are promises for the future to review, consult or consider.

Compared to the recommendations in the published Scrutiny Report (Annex 2) the White Paper will look weak. In particular Annex 1 shows clearly that little is being done on VAT, employment protection or the general area of PAYE/NIC/SSP which employers find most burdensome. (See Annex 3).

Many of the proposals in the Scrutiny Report have been lost and virtually no new ones added. Even the E(A) proposal that industrial tribunal complainants should make a cash deposit if they continued after an adverse pre-hearing assessment has been vetoed by D/Employment. *and the Law Officers*

A central unit within the Enterprise Unit to assist departments and ensure best practice in performing their own cost-benefit analysis on new regulations will help prevent a further increase in burdens, but clearly much more could be done to tackle existing burdens and Annex 4 sets out an agenda for future work.

There are two choices:

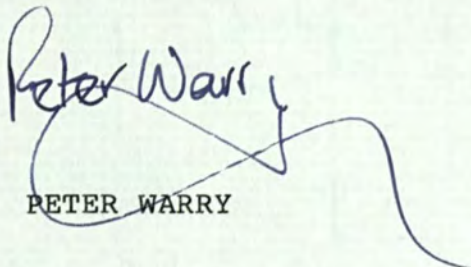
1. Publish the White Paper broadly as proposed and risk criticism that it is a timid response to the Scrutiny Report, concentrating only on slackening the planning controls which are necessary to safeguard our environment.

Or

2. delay the White Paper and risk press reports of 'a Cabinet split' and back-sliding on even the small ground that has been gained.

Provided it is clearly stated that the White Paper is only an initial response and the fight for deregulation goes on, then we strongly favour publishing the White Paper.

To ensure that further progress is made (and to monitor delivery of the promises already made) you may want to set a Christmas deadline for a second report to E(A). The list in Annex 4 could be a starting point. But MISC 114 may be too light-weight to achieve measures which the departments concerned will strongly resist: perhaps a Star Chamber with Lord Whitelaw, Norman Tebbit and David Young may be better.



PETER WARRY

SUMMARY OF MISC 114 PROPOSALS

	PLANNING ETC	DTI	CUSTOMS & EXCISE	REVENUE/ DHSS	DHSS	EMPLOYMENT	HOME OFFICE	TOTAL
<u>ACTIONS:</u>								
MAJOR	3	2	0	0	0	0	0	5
MINOR	2	3	3	1	0	3	0	12
<u>GUIDANCE ETC:</u>								
NEW GUIDANCE	1	0	0	1	0	4	1	7
BETTER INFORMATION	1	0	1	3	1	4	0	10
<u>REVIEWS ETC:</u>								
REVIEWS	5	1	1	0	1	1	1	10
CONSULTATIONS	0	2	1*	1	2	0	0	6
CONSIDERATION	0	0	1	1	1	2	3	8
TOTAL	12	8	7	7	5	14	5	58

Actions already
announced included
in White Paper
(but not above)

1	0	1	0	0	0	1	1
---	---	---	---	---	---	---	---

* Consulting European partners about raising VAT threshold.

Chapter 4

Action to cut the burden:
changes in requirements

Following (sections 4.1–4.4) is a check list summarising the main options for change in existing requirements emerging from our detailed studies in seven Departments. We recommend urgent follow-up work (including where necessary consultations with the outside interests concerned) as a basis for Ministerial decisions on the scope for action in these areas.

4.1 VAT, PAYE, NIC, SSP

- *put the PAYE system on to a non-cumulative basis.* This would be a far-reaching change with wide implications for all employers and employees. But it could open the way to putting the NIC and PAYE calculations side by side in the same deduction tables, which would help small employers. Work on this should be taken forward in the general context of the Government's consideration of personal taxation.
- *take more small businesses out of the VAT net.* Though further exemptions have drawbacks, VAT imposes significant compliance costs on small firms. *But* there is a major EC constraint. Early decisions are needed on the possibility of tackling this (7.4 below);
- improve '*bad debt relief*' in the VAT system (which will reduce concerns we found in a number of small manufacturing firms); and introduce a *monthly payment plan*, to help very small businesses with VAT;
- *make SSP easier to integrate with firms' existing pay-rolling systems*, by simplifying administrative procedures on 'qualifying periods'; and *allow businesses to opt out of the SSP system* where they prefer to pay sick employees at the appropriate rate without refund;
- reduce the present *multiplicity of NIC rates*.

4.2 Planning, fire and building requirements

- cut planning burdens by speeding up local decisions on small developments; and by legislating to introduce *Simplified Planning Zones*, building on – but extending – experience with Enterprise Zones; make it easier for firms to *change the use of commercial premises*; and assist people *starting small businesses in their own homes*;
- *rationalise the building regulations*, with particular reference to the conversion of existing buildings for commercial use; and to the detailed requirements on fire precautions and on energy saving;
- *increase flexibility in the application of fire precautions* to premises presenting minimal fire risk. (Creation of a general statutory duty on fire precautions, under the new legislation envisaged to replace the Fire Precautions Act 1971, could assist the introduction of more flexible arrangements.)

4.3 Employment protection, Wages Councils, Health and Safety at Work

- *increase employees' qualifying periods* in unfair dismissal cases from 1 to 2 years, in firms employing over 20. Our field work confirmed that the present 1 year period is too short for many smaller businesses, and is distorting dismissal decisions;
- *redress the balance in unfair dismissal cases* by further action to discourage ill-founded complaints (eg a scheme for cash deposits from some or all complainants to be refunded or forfeited at the discretion of the industrial tribunal). We found significant concern among small businesses with experience of unfair dismissal law that the present system is unduly slanted against the employer;

- *make tribunal proceedings quicker and more efficient* by reducing legalism in the present system. We found significant concern about the scale and nature of the demands made at present on management resources in unfair dismissal cases;
- abolish or drastically relax *Wages Councils' controls over young people's wages*, which price some of them out of jobs.
- simplify and rationalise, without loss of essential protections, *statutory health and safety provisions*, which are unnecessarily complicated; and eliminate some inessential requirements (eg restrictions on women's hours of work; notification of the employment of young people in factories; posting of extracts of legislation).

4.4 Company and consumer law

- *eliminate the present statutory audit of accounts for 'shareholder-managed' small businesses*; reduce and simplify the *content of accounts and balance sheets* required from small firms at present; and simplify the *'annual return'* requirements;
- put greater emphasis on 'self-certification' systems in the enforcement of *weights and measures* requirements; use the planned introduction of a new 'general statutory duty' on *product safety* as a basis for containing detailed regulations in this area; and, in the longer term, simplify and rationalise requirements on *consumer credit* (the immediate priority in this area is a period of stability in the present law).

4.5 General points

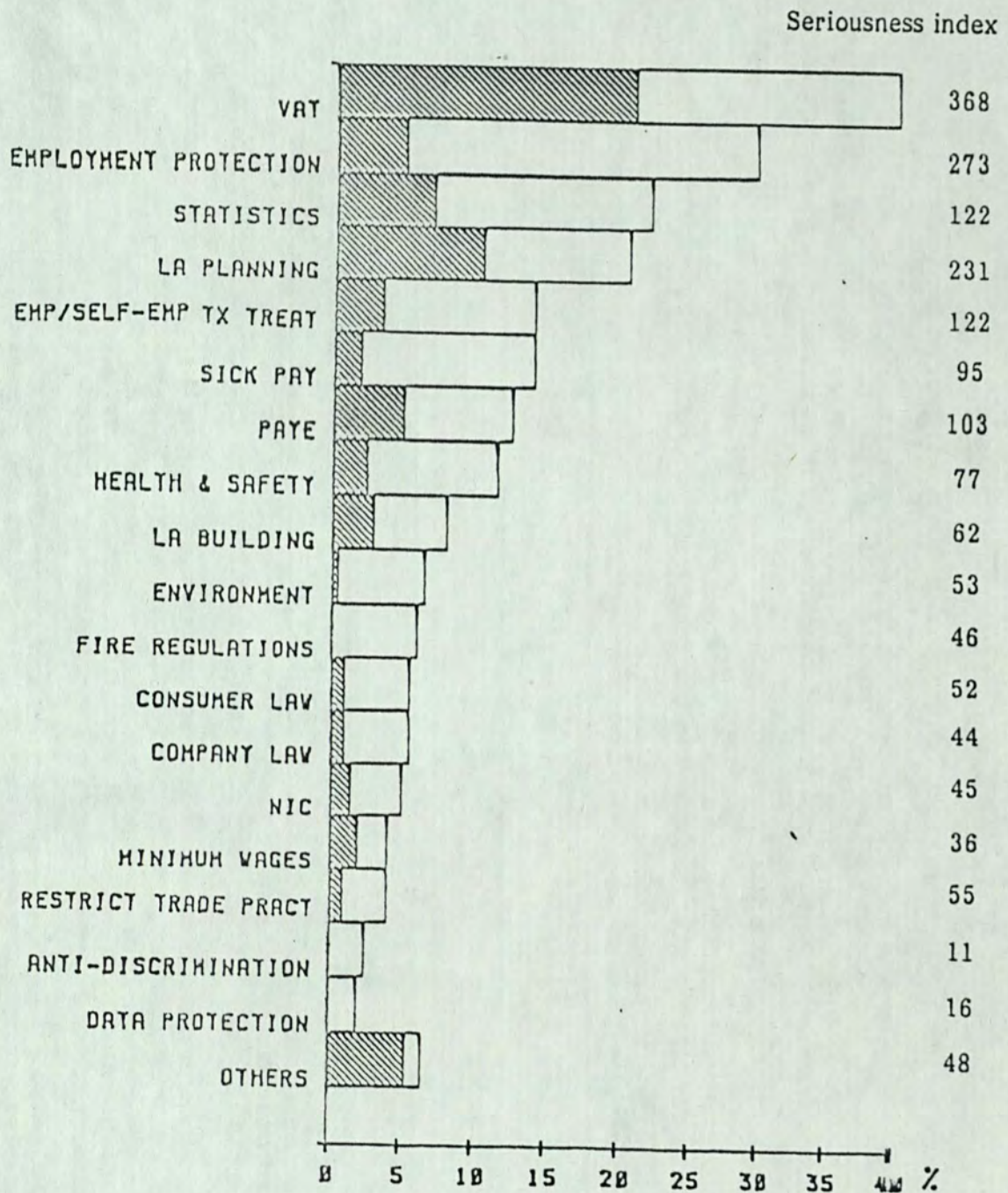
- 4.5.1 Three general points emerge from our studies of individual requirements.
- 4.5.2 The first touches the use, where regulation is unavoidable, of *general statutory duties* as an alternative to detailed controls through secondary legislation. Such duties allow business maximum freedom in the choice of means to meet prescribed ends. But their value depends critically on:
- establishing unequivocally that compliance and other costs must be taken fully into account in determining what in practice the duty requires businesses to do;
 - developing flexible codes to give detailed guidance on how businesses may comply (with maximum reliance on input from business itself; a clear distinction between recommendations on best practice and statements of minimum necessary standards; and short summaries of key points for small businesses);
 - cutting back – and controlling the future growth of – detailed regulation in the area concerned.
- 4.5.3 Secondly, we recommend reliance wherever possible on *'self-certification'* by firms themselves, as an alternative to mandatory inspections/tests/verification by enforcement authorities before business operations are permitted to go ahead. In fields like weights and measures, building controls and fire prevention, self-certification arrangements – backed by positive guidance and support from enforcement authorities – can cut both compliance and enforcement costs.
- 4.5.4 Thirdly, we recommend a *critical general review of licensing requirements*, an illustrative list of which is at Appendix 5.
- 4.5.5 Licensing – which makes it unlawful to trade without Government permission – is an exceptionally stringent method of regulation. It tends to maximise the power of the regulator over the regulated. And, by

creating controls over market entry, it can inhibit enterprise and competition. Its use is warranted only if the end in view is of overriding importance, and cannot adequately be achieved by other less onerous means.

4.6 Other matters

4.6.1 Appendix 6 suggests further work on some other detailed issues. These include the requirements deriving from local authority private Acts and byelaws.

BUSINESSMEN'S WEIGHTINGS OF GOVERNMENT BURDENS



POSSIBLE MAJOR DEREGULATION INITIATIVES

A. PAYE/NIC/SSP/VAT

1. In their Autumn Green Paper Treasury will include proposals on non-cumulative PAYE and some schemes to alleviate the problem of the self-employment boundary line.
2. Currently employers are responsible for administering statutory sick pay, redundancy payments, maternity payments and industrial injuries compensation on behalf of the government for which they are reimbursed (in part or whole) for each individual payment. Much bureaucratic churning could be avoided if, in return for a reduction in NIC rates, employers were allowed to run any scheme they chose provided it gave benefits at least as good as the Government scheme.

This would eliminate a heavy administrative burden on employers and reduce NIC rates. It would be timely given the recent changes in NIC rates and those necessary for SERPS. It could also be linked to the change in NIC rates necessary if a common definition of pay is introduced for calculating both PAYE and NIC.

3. Simple changes to the PIID expense reporting procedure could dramatically reduce this widely disliked burden.
4. Give VAT bad debt relief whenever a company ceases trading still owing money, and not just in the minority of cases where someone has gone to the expense of putting it into receivership (or its equivalent).

B. EMPLOYMENT LAW

1. Reinstate the E(A) proposal for cash deposits for industrial tribunal claimants proceeding after an adverse pre-hearing assessment.

2. Remove the right to time off with pay for union duties.
3. Deregulate employment agencies.

C. HEALTH AND SAFETY

1. Limit the annual number of new regulations and set an annual target for the elimination of redundant regulations.
2. Consolidate the proliferation of different notification requirements.

D. GENERAL

1. Review of all licences in order to eliminate those that stifle competition or serve no purpose (eg duties to provide hygienic premises, wholesome food and safe goods already exist and a licence only adds bureaucracy). Any remaining licences should be consolidated such that no supermarket should require more than one licence.
2. Review the role of all inspectors and enforcing agencies in order to minimise overlap, and by giving less narrow responsibilities encourage a broader appreciation of business needs.
3. Introduce appeals procedures into all enforcing agencies (including Inland Revenue and Customs and Excise) such that a vent is available for customer frustration and a check placed on unfettered authority.
4. All inspectors that can require businesses to undertake work (eg on fire safety) should have to indicate the rough costs for the work they propose. The total costs of individual inspectors could then be calculated annually.