

One-in, One-out: Second Statement of New Regulation

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Ministerial Foreword



Across the length and breadth of our country, I meet business owners and managers frustrated by government bureaucracy and red tape. I want to free-up this great wealth of talent and innovation so that Britain's entrepreneurs can concentrate on what they do best – growing their business, creating jobs and driving forward our economic recovery. That is why tackling the regulatory burden is right at the top of the Government's agenda and is a key part of the Growth Review.

The ultimate goal is to bring about a complete culture change across Whitehall – and inch by inch we're driving it through. Crucially, Government Departments are now required to identify and get rid of regulations before they can bring in new rules.

I know that it can take time for changes to be felt on the ground, and that successive governments have made all sorts of promises on tackling red tape. But we're serious about freeing business and civil society organisations to grow, compete and create jobs. Along with paying down the deficit, cutting business taxes, supporting entrepreneurs and boosting bank lending, it's a key part of our multi-faceted plan to re-build and re-balance the economy – and I am determined to make it work.

A handwritten signature in black ink, appearing to read 'Mark Prisk', written over a horizontal line.

Mark Prisk

Minister of State for Business and Enterprise

Overview and Rationale

The Government is committed to putting the UK on a path to sustainable economic growth. Economic stability that comes from a credible deficit reduction plan is the essential starting point, but it is not in itself sufficient to deliver long-term growth.

For sustainable growth to be driven by private sector investment, enterprise and job creation, Government needs to be proactive in ensuring that right across Whitehall, policy acts in a way that supports growth rather than hampers it. This requires tough choices and putting economic growth ahead of other priorities.

That is why reducing unnecessary regulation and cutting red tape is one of the Government's core priorities to deliver growth. The Prime Minister has said "I want us to be the first government in modern history to leave office having reduced the overall burden of regulation, rather than increasing it." We know that well targeted and sensibly designed regulations can help create the conditions for growth. But poorly designed, disproportionate or uncoordinated regulation gets in the way of innovation and productivity.

Across Government, we have introduced the *One-in, One-out* rule to help achieve this objective. The main purpose of *One-in, One-out* is to make Government Departments consider in greater depth whether regulation is the appropriate response to an issue, to reduce the number of new regulations that are introduced, and to ensure that regulation is only used as a last resort. Together with Red Tape Challenge – a process scrapping and simplifying existing regulations that are obsolete, ineffective, or unnecessary – and the moratorium on new regulation for micro-businesses, *One-in, One-out* plays a vital role in ensuring businesses and civil society organisations can focus on growth, rather than being held back by red tape.

Statement of New Regulation

The second Statement of New Regulation reports on the first year of application of the *One-in, One-out* rule to new domestic regulation. Today departments are each publishing a summary of the regulations they intend to introduce, or have already introduced, between July and December 2011.

In the first statement, published in April 2011 we set out our intention to maintain a net zero, or better, cumulative cost for business from domestic regulation. This statement demonstrates that over the period from January to December 2011, we have been successful in achieving that goal overall.

Key Achievements for the Year

- Over the course of the year, the increase in business burdens has remained at, or close to zero¹;
- The number of deregulatory measures has increased three-fold between the first and second halves of 2011;
- Any increase in business burdens attributable to regulatory measures has been more than offset by savings attributable to a much higher number of deregulatory measures;
- Nine departments (60 per cent) are reporting a net reduction of regulatory costs to business through 2011;
- Those departments that are currently reporting a net increase in regulatory costs are committed to working to eliminate their deficits by the next Statement of New Regulation; and
- The Regulatory Policy Committee has reported an increase in the proportion of fit for purpose opinions from 56 per cent to 69 per cent over the last year - a noticeable improvement in the quality of departmental analysis.

Summary Position January – December 2011

	Position: end June 2011	Measures coming into force between June and December 2011	Forecast position : end Dec 2011
Volume			
INs	10	9	19
OUTs	8	25	33
Zero net cost	19	18	37
Annual regulatory cost to business (millions)			
INs	£65.27	£273.08	£338.35
OUTs	-£3,353.75	-£227.88	-£3,581.63
Net	-£3,288.48	£45.20	-£3,243.28

[Annex A](#) contains a 2011 full year breakdown by Department.

¹ A saving attributable to the change to private pensions indexation introduced in January 2011 is expected to be largely offset by pensions auto-enrolment in due course

There are a small number of specific measures included in the top level analysis which warrant further explanation:

- the bulk of the savings delivered over this reporting year are attributable to the change to private pensions indexation, introduced by the Department for Work and Pensions in January 2011. The final value of the Out attributable to this measure is £3.342 bn;
- the Department of Health's proposed ban on tobacco vending machines has been validated by the independent Regulatory Policy Committee as having a net regulatory cost to business of £85.9m including lost revenue and stock depreciation. This is a legacy measure which was adopted by this Government in March 2011; and
- the cost of the introduction of Tiers 1 & 2 and Tier 4 migration caps remains under consideration pending the conclusions of the Migration Advisory Committee, which is expected to report early in 2012.

There is also one European measure, which although not included in the Statement of New Regulation, warrants explicit mention as it has generated some public debate and will become law in the UK on 1 October 2011 - the Agency Workers Directive.

As they stand, the UK implementing regulations give agency workers equal treatment on basic working and employment conditions (key elements include: pay, holidays, rest periods, working time) as if they had been recruited directly by the hirer after 12 weeks in the same job. This 12 week qualifying period is not contained explicitly in the Directive, where new rights given to agency workers are day one rights, but instead exists because of an agreement negotiated by the CBI and TUC in May 2008.

We know the Agency Worker Regulations are controversial and that businesses have genuine concerns about the costs the Regulations may impose on them. We understand these concerns, which is why we looked long and hard at whether to re-open negotiations on the regulations, in an attempt to address business concern. However, our absolute priority was to protect the 12 week qualifying period which businesses strongly support, rather than risk losing the derogation entirely and ending up with a much worse position for business, with rights accruing on day one. We believe this represents the best deal for British business.

Wider work on Business Burdens

One-in, One-out is a vital component of our efforts to reduce burdens stemming from domestic legislation. But the Government is also active on other fronts which businesses tell us are important to them. [Annex D](#) sets out the full detail.

Red Tape Challenge

Through the Red Tape Challenge we are doing all we can to free businesses and encourage them to play their part in driving growth. Employment regulations will feature next, and businesses and members of the public will be able to tell the Government what they think about almost 200 different rules.

So far as result of the challenge concerned, 160 regulations affecting the retail sector will be reviewed, amended or abolished, and reviews are underway on the rules facing the road transportation, manufacturing and hospitality, food and drink sectors among others. Results will be announced in the Autumn.

Further information on Red Tape Challenge can be found at www.redtapechallenge.co.uk

Europe

The UK will continue to hold the European institutions to account and continue to push for minimum regulation only where it is proven to be needed.

The Government is committed to engaging early in Brussels to maximise UK influence and to end the gold-plating of EU regulations, so that when European rules are implemented in UK, this does not put British businesses at a competitive disadvantage compared with their European counterparts. Specifically:

- we have introduced 'copy-out', a straight transcription of EU law into domestic law to stop over-interpretation;
- we have secured support from EU Ministers for the exemption of micro-businesses from certain EU accounting rules. Provided this is endorsed by the European Parliament, this will deliver savings to UK small businesses;
- the European Parliament has recently agreed to set up its own impact assessment unit, to enable it to take better account of the impact of new legislation on business; and
- following pressure from the Prime Minister, the Commission has committed to looking for ways to reduce the impact of new EU laws on micro-businesses and to screening all existing EU legislation for other micro-business exemptions.

Further details on our action on EU regulation can be found at <http://www.bis.gov.uk/policies/bre/policy/european-legislation>

Tax Administration

The Chancellor and Exchequer Secretary launched the Office of Tax Simplification (OTS) on 20 July 2010 to provide the Government with independent advice on simplifying the UK tax system. The interim OTS report on small business taxation was published in March 2011, with the final report to be published ahead of Budget 2012.

Further detail on this initiative can be found at: <http://www.hm-treasury.gov.uk/ots.htm>

Reducing Non-regulatory Burdens

Businesses often tell us that it is difficult to contract with Government. The Cabinet Office has been working with Departments to reduce the burdens that flow from Government procurement procedures. It is currently planning to implement a wide range of reforms to central government procurement practices which will yield substantial savings to both the public sector and business. The proposed reforms will lower the costs to suppliers of doing business with central government organisations.

Whilst these important reductions are out of scope of *One-in, One-out*, which currently focuses on regulatory costs, and estimates of savings have not been validated by the Regulatory Policy Committee, this initiative demonstrates Government's intention to remove red tape wherever it can.

Further detail can be found in [Annex C](#).

The Year Ahead

The figures above represent a good start but there is more to do.

In the year ahead:

- we will publish future Statements of New Regulation earlier – ahead of Common Commencement Dates - to improve transparency and give businesses more time to adapt to regulatory change;
- we will keep *One-in, One-out* in balance, measured 'this-Parliament-to-date' at each checkpoint but recognise that there will be incoming regulation which will offset some of the current credit position. This is both natural and expected; and
- the Department of Health, Home Office and the Department for Environment, Food and Rural Affairs are committed to carry out a review of their stock of regulations through the Red Tape Challenge process.

ANNEX A

Summary of Cumulative Departmental Positions 1 January to 31 December 2011

	Volume			Annual regulatory cost to business (millions ²)		
	INs	OUTs	Zero Net Cost	INs	OUTs	Net
Department for Business, Innovation & Skills	3	4	9	£8.25	-£31.88	-£23.63
Department for Communities & Local Government	0	3	2	£0.00	-£4.26	-£4.26
Cabinet Office	0	0	1	£0.00	£0.00	£0.00
Department for Culture, Media & Sport	0	1	1	£0.00	-£8.60	-£8.60
Department of Energy & Climate Change	2 ³	5	3	£0.02	-£2.53	-£2.51
Department for Environment, Food and Rural Affairs	5	8	7	£185.90 ⁴	-£136.10	£49.79
Department for Education	0	1	0	£0.00	-£0.07	-£0.07
Department for Transport	2	2	5	£0.02	-£0.23	-£0.21
Department of Health	4	1	2	£95.19	-£0.07	£95.12
Department for Work & Pensions	0	2	0	£0.00	-£3,369.00	-£3,369.00
Food Standards Agency	0	1	0	£0.00	-£0.13	-£0.13
HM Treasury	1	4	1	£1.48	-£27.94	-£26.46
Home Office / Government Equalities Office	2	1	3	£47.50 ⁵	-£0.83	£46.67
Health & Safety Executive	0	0	1	£0.00	£0.00	£0.00
Ministry of Justice	0	0	2	£0.00	£0.00	£0.00
Total⁶	19	33	37	£338.35	-£3581.63	-£3243.28

² Equivalent Annual Net Cost to Business (EANCB), as measured using the *One-in, One-out* methodology

³ Includes a measure related to the Carbon Emissions Reduction Target scheme for which no costings have been included, pending a decision by the Office for National Statistics on possible classification of the scheme as a tax, which would make it out of scope.

⁴ Includes £185.6m In arising from transfer of private sewers to statutory water undertakers. Although this figure has been agreed by RPC, the final figure may change following a review of the application of the *One-in One-out* methodology in respect of new obligations in price-regulated sectors

⁵ Includes provisional estimates for two migration measures from SNR1 on which the Migration Advisory Committee is expected to report early in 2012. The conclusions from that review will be subject to Regulatory Policy Committee scrutiny, and the final figures incorporated in the cumulative Home Office balance.

⁶ 0.01 discrepancy between departmental costs and table totals for Ins and Outs due to rounding effects.

ANNEX B

Technical Notes

What is included in the Statement of New Regulation?

The Statement of New Regulation covers all new regulatory measures that fall within the scope of *One-in, One-out*. Further details are available in the published *One-in, One-out* Methodology⁷, but in summary this includes most new domestic regulations that are projected to give rise to costs or benefits to business and civil society organisations. It does not include regulations that:

- are implementing EU Regulations, Decisions and Directives;
- are implementing international agreements;
- are fiscal measures including measures designed to address systemic financial risk;
- are civil emergency regulations as classed under the Civil Contingencies Act 2004;
- are issued under Royal Proclamation or have a short-life span of up to 12 months and include an automatic sunset clause; or
- are fees and charges imposed by public bodies for cost recovery purposes only.

What information are Departments publishing today?

Departments are today publishing a summary of the measures that are within the scope of the Statement of New Regulation which they expect to come into force between July and December 2011. This includes a short description of the title and purpose of the measure, the expected date of implementation, and a link to latest impact assessment (where published). Where applicable, measures are broken down into the three main categories: Ins, Outs, and Zero net cost measures.

The information published by Departments is correct as of 26 September 2011, and has been used as the basis for the cross-Government and departmental totals provided in this statement. It is possible that legislative plans may change after the publication of the statement, resulting in measures not being introduced as expected. An update on the final position for the period will be provided in the next statement.

What is the difference between an IN, an OUT, and a Zero Net Cost measure?

An 'In' is a measure that results in an increase in regulatory costs for business. In other words, the direct costs to business, assessed over the lifetime of the regulation, are expected to exceed the value of any benefits or savings to business.

An 'Out' is a measure that removes or recasts an existing regulatory burden on business, resulting in a quantified reduction in costs to business.

⁷ <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology>

The 'Zero net cost' category can cover a variety of different scenarios. These include regulatory and deregulatory measures where there is no quantified net cost or saving to business (for example where the impacts are very small). In addition, the zero net cost category covers measures that impose new obligations on business, but where the cost to business is expected to be fully offset by the anticipated savings.

How are the costs of regulation calculated?

The Statement of New Regulation includes details of the Equivalent Annual Net Cost to Business (EANCB) for each measure. The EANCB represents the annualised direct net cost to business, incorporating direct recurring costs, direct transition costs, direct recurring benefits, and direct transitional benefits, which are spread out over the lifetime of the policy.

All information is shown in constant 2009 prices (meaning that information is presented in 'money of the day' terms). In some cases where the information provided has been in different price terms (for example, in 2007 prices) some calculations have been undertaken to uplift the values into 2009 terms, so that all measures presented in the Statement of New Regulation are comparable on a like-for-like basis. This process does not change the significance of costs and benefits that were provided in the impact assessments, but simply expresses these in different price terms.

The assumptions underpinning the calculation of the costs and benefits for measures included in the statement have been subject to rigorous scrutiny and challenge by the independent Regulatory Policy Committee (RPC), to ensure that they accurately reflect the real impacts on business. Where there is no agreement between the department and the RPC on the correct figure, it is the RPC's figure that is used.

Further detail can be found in the *One-in, One-out* Methodology.

What is the role of the Regulatory Policy Committee?

The Regulatory Policy Committee was established to provide external and independent challenge on the evidence and analysis, presented in Impact Assessments, supporting the development of new regulatory measures proposed by the Government. In delivering its remit and the full benefits of external challenge, it aims to be objective and consistent as well as being truly independent of departmental decision making.

In its third report, published in July 2011⁸, the RPC announced that during the first half of 2011 it had issued 278 Opinions on Impact Assessments sent to it for scrutiny, with positive signs that its work is beginning to make a real difference. There has been a significant increase in the proportion of Impact Assessments that found to be 'Fit for Purpose', rising from 56% previously to 69%.

⁸ <http://regulatorypolicycommittee.independent.gov.uk/wp-content/uploads/2011/09/Rating-Regulation-July-2011-FINAL-A.pdf>

ANNEX C

Non-regulatory Simplification

Area of Reform	Description of Reform	Estimated business savings
Pre-Qualification Questionnaires⁹	<p>For all procurements in common commodities, systems will allow suppliers to provide their pre-qualification data once – and not submit the same data time and time again.</p> <p>In addition, for all central government procurements under approximately £100,000 (the EU threshold), the Cabinet Office will seek to eliminate Pre-Qualification Questionnaires entirely, with procurers free to choose the best route to market for the individual circumstances).</p>	<p>The Cabinet Office estimates that for large procurements (competitive dialogue process), it costs a supplier approximately £125,000 to respond to a Pre-Qualification Questionnaire. Up to 50 per cent of these costs can be reduced by having annually updated data, for frequent suppliers¹⁰.</p> <p>Further business savings will flow from the elimination of Pre-Qualification Questionnaires below the EU threshold.</p>
Choice of procurement procedures	For larger procurements, there will be a move towards greater use of the 'open procedure' – thus eliminating a separate selection stage early on in the process.	Elimination of one selection stage should produce savings for all businesses seeking to win contracts under the 'open procedure'
Streamlining procurement	The implementation of lean principles across government procurement projects to reduce waste, tackle bureaucracy and lower the cost of doing business with government.	Cabinet Office estimates that this could save suppliers £800,000 per 'competitive dialogue' procurement process ¹¹ .
Standardising Guidance	Practical guidance has been published by the Cabinet Office to set out common principles which departments should follow to help ensure consistency of approach across central government in meeting transparency requirements.	Standardising this guidance across government will lower the cost of doing business with multiple central government organisations ¹² .
Simplifying information provision	A new website, Contracts Finder has been launched. <i>Contracts Finder</i> is a new platform providing access to public sector procurement related information and documentation, including the facility to publish both tender and contract documents in a single place.	The <i>Contracts Finder</i> website will make it easier for suppliers, (particularly Small & Medium Sized Enterprises) to identify contracts that they could potentially supply.

⁹ Pre-qualification Questionnaires - Information submitted at the outset of the procurement process to quickly identify which eligible and capable firms should be invited to tender for contracts

¹⁰ Cabinet Office report '[Lean Procurement Project Diagnostic Findings](#)', December 2010, page 17

¹¹ Cabinet Office report '[Lean Procurement Project Diagnostic Findings](#)', December 2010, page 13

¹² Cabinet Office report '[Lean Procurement Project Diagnostic Findings](#)', December 2010, page 18

ANNEX D

Government Action on Regulation

To cut the regulatory burden facing British businesses the Government has:

- **Scrapped proposals for specific regulations which would have cost business over £350 million a year.** This includes not extending the right to request time to train to businesses with fewer than 250 employees and not bringing forward the dual discrimination rule.
- **Introduced an unprecedented moratorium on new domestic regulation for micro-businesses and start-ups for the next three years.**
- **Stemmed the flow of new regulation by introducing the 'One In, One Out' system of regulatory budgets for government departments.**
- **Begun a public audit (Red Tape Challenge) of all 21,000 regulations currently in force with a presumption that burdensome regulations will be removed.** Everyone can get involved to tell us the regulations that work and those that don't, what can be changed and what can be kept, by logging onto www.redtapechallenge.co.uk.
- **Decided to scrap or simplify more than 160 regulations affecting the retail sector** as part of the Red Tape Challenge. A single piece of legislation will consolidate consumer rights law; age verification and licensing will be simplified; disproportionate intervention (such as licensing for chocolate liqueurs) ditched; and redundant legislation (for instance, trading with the enemy) removed.
- **Introduced 'sunset clauses' into new regulations so that policy makers have to review that regulation after five years to determine whether it remains relevant.** This will begin to get rid of outdated regulations that are no longer needed but still impose a compliance cost on enterprise.
- **Ended the 'gold plating' of EU regulations so that British firms are not placed at a disadvantage compared to their EU competitors.** We are avoiding the early implementation of EU regulations and copying them straight from the directive into UK law so that they don't pick up any burdensome extras on the way.
- **Promoting a better approach to existing and proposed EU measures, consistent with growth.** Specific areas currently being focussed on include EU-sourced trade regulation, preventing harmful new European Parliament proposals on maternity and paternity rights, the Clinical Trials Directive, and the fitness check review of the Information and Consultation of Employees Directive.
- **Pushed the European Commission to deliver a culture change that bears down on the overall level of regulation.** In particular, we want to strengthen the SME test so that micro-businesses with fewer than 10 employees are generally exempted from European legislation.

- **Announced plans to implement the proposals from Lord Young's review of health and safety.** This includes bringing in new risk assessment tools, the registration of health and safety consultants, combined inspection programmes and taking action to constrain 'no win, no fee' legal services.
- **Independent review of health and safety legislation.** The Government has established an Independent Review of Health and Safety legislation following on from Lord Young's Review. The review will consider the opportunities for reducing the burden of health and safety legislation on UK businesses while maintaining the progress made in improving health and safety outcomes. This review - under the chairmanship of leading risk management specialist Professor Ragnar Löfstedt - is due to make recommendations to Ministers by the end of October 2011.
- **Outlined plans to consult on removing Equality Act requirements for businesses to take reasonable steps to prevent harassment of their staff by third parties.** This is something that businesses have no direct control over and will save them £0.3 million.
- **Consulted on changes to employment law that will give business the confidence to take on staff.** We are proposing to increase the qualifying period for employees to be able to bring a claim for unfair dismissal from one to two years and we will be introducing fees for lodging employment tribunal claims to transfer the cost burden from tax payers to the users of the system.
- **Announced its intention to reduce the number of UK SMEs required to undertake an audit and to reduce the burden of financial accounting for UK businesses.** As was announced in the Government's Plan for Growth, BIS will shortly be consulting on proposals for legislation to be brought forward in 2012 to exempt many subsidiaries from producing audit accounts and to match only the minimum accounting standards required by EU law.
- **Improved guidance to business on compliance with regulation.** Providing advice to all sizes of businesses on which specific regulations they are required to comply with and how best to go about complying will save time and money for firms of all shapes and sizes.
- **Ditched Home Information Packs.** This has reduced the cost of selling homes and helped to keep the housing market moving.
- **Announced a major shake-up of the planning system.** A presumption in favour of sustainable development, a streamlined system for planning applications and new fast-track planning for major infrastructure will strip out the waste and bureaucracy from the planning system.
- **National Planning Policy Framework.** We have published the draft National Planning Policy Framework for consultation. This is a key part of our reforms to make the planning system less complex and more accessible, and to promote sustainable growth.
- **Announced a consultation on moving registration for the main business taxes online.** HMRC launched two consultations - '[Digital by Default](#)' and '[Next steps for moving VAT online](#)' - on 8 August 2011.

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This publication is also available on our website at <http://www.bis.gov.uk>

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

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