REGULATORY REFORM (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Regulatory Reform (Scotland) Bill introduced in the Scottish Parliament on 27 March 2013. It has been prepared by the Scottish Government to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 26–EN.

BACKGROUND

2. The Regulatory Reform (Scotland) Bill (“the Bill”) was announced by the First Minister in the Programme for Government in September 2012 and takes forward the 2011 commitment to improve further the way regulations are applied in practice across Scotland. The primary purpose of the Bill is to improve the way regulation is developed and applied, creating more favourable business conditions in Scotland and delivering benefits for the environment. It will protect our people and environment, help businesses to flourish and create jobs.

STRATEGIC OBJECTIVES

3. This Bill takes forward the Government’s distinctive Better Regulation agenda which is based on the five principles of better regulation, requiring it to be transparent, accountable, proportionate, consistent and targeted where needed. It will contribute to the Scottish Government’s Purpose of focussing Government and public services on creating a more successful country, with opportunities for all Scotland to flourish, through increasing sustainable economic growth. The Bill will contribute directly to the achievement of the Economic Growth, Productivity and Sustainability purpose targets by providing a more supportive business environment, improving the efficiency and affordability of the public sector and protecting and enhancing Scotland’s natural assets to support our long-term competitiveness. The Bill will also contribute to a number of National Outcomes, including that:

- we live in a Scotland that is the most attractive place for doing business in Europe;
- our public services are high quality, continually improving, efficient and responsive to local people’s needs;
- we value and enjoy our built and natural environment and protect and enhance it for future generations.
POLICY OBJECTIVES OF THE BILL

4. The Scottish Government’s Better Regulation and Better Environmental Regulation programmes are distinct agendas with a number of synergies. This Bill combines them where legislation is required, and is made up of four primary elements, explained further below:

- Part 1 - Regulatory functions;
- Part 2 - Environmental regulation;
- Part 3 – Miscellaneous, including marine licensing; planning authorities’ functions: charges and fees; and street traders’ licences;
- Part 4 – General.

PART 1 - REGULATORY FUNCTIONS

5. There are three main enterprise elements contained in Part 1 of the Bill. These take account of the Consultation on Proposals for a Better Regulation Bill \(^1\) (August to October 2012).

6. In response to business evidence about the adverse impact of inconsistent application of regulation, it provides a regulation-making power to encourage or improve consistency in the exercise of regulatory functions. In particular, where a regulator has discretion as to how to apply a regulatory requirement, the power may be used to encourage or improve consistency. For example, regulations may provide for, or require the adoption of, consistent requirements and procedures. However, if a regulator makes a compelling case that local circumstances merit a variation, the regulations can take account of this.

7. It places a duty on listed regulators (i.e., those specified, or of a description specified, in schedule 1) to exercise functions in a way that contributes to achieving sustainable economic growth (in so far as this is not inconsistent with the exercise of those functions). These regulators must also have regard to any guidance issued by the Scottish Ministers in relation to the duty.

8. It also provides for a code of practice in relation to the exercise of regulatory functions. The purpose is to encourage the adoption of practices that reflect the better regulation principles and the principle that regulatory functions should be carried out in a way that contributes to achieving sustainable economic growth. The code will be developed collaboratively with business representatives, public bodies, regulators and COSLA.

9. The specific functions of local authority and other public regulators are usually framed by legislation and objectives which protect individuals, assets or the environment, whether natural or built, from an identified risk or hazard. Although much remains to be achieved, over the last few years progress has been made in ensuring that public services are high quality, continually improving, efficient and responsive to local people’s needs.

\(^1\) \url{http://www.scotland.gov.uk/Publications/2012/08/8403}
10. In the specific context of Better Regulation, some progress has been achieved in requiring regulators to have appropriate regard to economic and business considerations in the delivery of their duties. The Public Services Reform (Scotland) Act 2010 imposed duties on certain public bodies, which now have to publish a range of information annually, including an annual statement of the steps taken to promote and increase sustainable economic growth and to improve efficiency and effectiveness during the relevant financial year.

11. Part 1 of the Bill enables further steps to be taken to encourage and improve the way specific regulatory functions are exercised, with a view to creating more consistent and favourable business conditions in Scotland.

PART 2 - ENVIRONMENTAL REGULATION

12. Similarly, there are three main environmental regulation elements contained in Part 2 of the Bill.

13. Current legislation sets out a number of objectives and general duties for SEPA, particularly in the Environment Act 1995 and the Water Environment and Water Services (Scotland) Act 2003. The Bill will simplify and update these into a new statutory purpose to reflect the sort of environmental regulator Scotland needs for the future. It provides that all of SEPA’s functions are exercisable for the general purpose of protecting and improving the environment, including the sustainable management of natural resources, and that, in carrying out its functions in pursuit of that primary purpose, SEPA should contribute to improving the health and wellbeing of people in Scotland and achieving sustainable economic growth.

14. Giving SEPA a new general purpose helps to make it clear that SEPA’s functions are not simply in relation to pollution control, and recognises the broader role that SEPA should have. It provides for the focus of the regulatory framework to be protecting and improving the environment. The new general purpose also properly reflects the fact that having a good environment is integral to having a good economy, and how the way that SEPA works with business and other stakeholders can make a direct contribution to having a favourable business environment in Scotland.

15. The Bill will provide and enable a simpler legislative framework, and by doing so will enable SEPA to be more transparent, accountable, proportionate, consistent and targeted in carrying out its regulatory functions. The Bill will enable the regulation of environmental activities, which are defined in terms of activities capable of causing, or liable to cause, environmental harm. This shifts the focus of the regulatory framework from pollution control to environmental harm. In particular, the Bill will enable the integration of the permissioning arrangements of SEPA’s four main regimes (water, waste, radioactive waste and pollution prevention and control) and simplify the regulatory procedures. This will not only make the legislative framework and regulatory procedures easier for SEPA to apply consistently and for businesses to understand, reducing the administrative burden on both, it will also enable SEPA to better identify, and focus most effort on, the most important environmental risks and harms. This will ensure more effective and efficient protection of the environment, reduce the regulatory burden on business and allow SEPA to take opportunities to improve the environment. The Bill will also remove redundant provisions of existing environmental protection legislation.
16. SEPA has a strong track record in terms of taking appropriate enforcement activity to ensure that Scotland’s environment is protected. SEPA needs, however, to have the right powers to do its job efficiently and effectively. The Bill will therefore enable the Scottish Ministers to provide SEPA with a more strategic range of enforcement tools, including additional enforcement measures such as fixed and variable monetary penalties and enforcement undertakings. The Lord Advocate will provide guidance to SEPA in respect of such penalties and undertakings, so helping to ensure that new penalties are applied consistently and proportionately as part of the whole range of sanctions that are available (including prosecution for offences).

17. Consistent with the “polluter pays” principle, the Bill will enable SEPA to recover the costs for imposing a variable monetary penalty (up to the date of imposition). It will also enable subordinate legislation to provide regulators such as SEPA with the ability to recover the costs of enforcement notices (up to the date of imposition), and to impose monetary penalties following non-compliance with such a notice.

18. The new range of enforcement tools will ensure that SEPA can make the right range of interventions to tackle poor performance, and better protect the environment for the benefit of all.

19. The Bill provides for employers or principals to have vicarious criminal liability for environmental offences, as specified by the Scottish Ministers, if committed by their employees or agents. This will help ensure that those who benefit from offending behaviour are held accountable for regulatory breaches.

20. The Bill provides for a new offence of causing or permitting significant environmental harm, where serious harm has actually been, or is likely to be, caused to the environment. The new offence will enable harm of that kind to be dealt with in a more effective and proportionate manner than under the current law.

21. The Bill will provide criminal courts with a wider range of sentencing options including the power to impose publicity orders and compensation orders, and to order that significant environmental harm be remediated in addition to, or instead of, imposing any other sanction. It will be an offence to fail to comply with a publicity order or a remediation order. The aim is to deter actions which damage the environment and undermine legitimate businesses, and to ensure that the environment is, where possible, remediated.

22. The Bill also makes a number of miscellaneous provisions relating to contaminated land, waste management licensing and air quality to further improve regulatory consistency.

PART 3 – MISCELLANEOUS

Marine licensing decisions

23. The Scottish Government is firmly committed to the development of a successful marine renewable energy industry in Scotland. The seas around Scotland have the potential to provide us with a sustainable, renewable energy source with up to 25% of Europe’s tidal power, 10% of
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its wave power and around 25% of the European offshore wind resource potential. In all, Scotland is estimated as being able to produce 12 gigawatts of energy from marine renewable and offshore wind sources by 2020.

24. The Scottish Government has, therefore, committed to achieving the EU 2020 target - 20% of EU’s energy consumption from renewable sources by 2020 - through a stated target of meeting 100% of Scotland’s electricity demand from renewable sources by 2020.

25. In progressing towards these important goals, the Scottish Government fundamentally believes that policy development and decision-making affecting offshore energy development should be conducted in an open and transparent way.

26. The process for authorising the construction and operation of new offshore wind, wave and tidal turbines and generators (between 1 and 12 nautical miles offshore) involves two consents. The first is a marine licence under section 29 of the Marine (Scotland) Act 2010. The second consent is an energy consent by Ministers under section 36 of the Electricity Act 1989, which is required for all generating stations in the territorial sea adjacent to Scotland with a permitted capacity of over 1 megawatt. Before a decision can be taken under section 29 of the Marine (Scotland) Act 2010, notice of the application must be published.

27. While it endeavours to get marine licensing decisions right first time, the Scottish Government recognises it is a principle of a just and fair society that there should be mechanisms in place for those who are affected by such decisions to challenge them.

28. In this regard, the Scottish Government considers that the mechanism for bringing legal challenges to offshore energy decisions would benefit from two principal changes.

29. First, to make transparent, focussed and more consistent with planning and roads reviews the legal basis and process by which a challenge may be brought. The current arrangements (across a range of land and marine use management decisions) blend a mix of statutory appeals and judicial review. Second, to ensure that this vital democratic safeguard is exercised in a way which avoids unnecessary delay in the courts (a delay which is obviously undesirable to both the challenger and to the projects themselves, particularly where the initial offer of private equity and debt funding available to these projects may be time limited) by applying strict time limits.

30. Part 3 of the Bill will, therefore, extend statutory appeal mechanisms to decisions by the Scottish Ministers under sections 28 and 29 of the Marine (Scotland) Act 2010 relating to those offshore marine energy projects within the Scottish territorial sea with a permitted capacity of 1 megawatt and above. The appeal will be to the Inner House of the Court of Session.

31. To maintain and apply that approach, consequential provision would require to be passed following the passage of the Bill by the UK Parliament in relation to energy consents under the Electricity Act 1989 and marine licensing decisions beyond 12 nautical miles, which fall within reserved matters (though in practice are decisions made by the Scottish Ministers under the devolution settlement). This would require an order to be made under section 104 of the Scotland Act 1998 providing for consequential modifications to be made to the 1989 Act and to
the Marine and Coastal Access Act 2009 in consequence of legislation passed by the Scottish Parliament. The section 104 order would be laid before the UK Parliament and would be debated in both houses.

Planning authorities’ functions: charges and fees

32. In recognition of the resource pressures faced by planning authorities, subject to parliamentary approval, the Scottish Ministers will increase planning fees by 20% in April 2013. Part 3 of the Bill also contains provisions to amend the Town and Country Planning (Scotland) Act 1997, as amended. The amendment aims to allow the Scottish Ministers to vary planning application fees based on the performance of a planning authority. This is to ensure the Government’s aspiration of an effective and efficient planning system is delivered. The Scottish Government will continue to work in partnership with COSLA, planning authorities and other stakeholders to drive a continuous performance improvement agenda to ensure that higher fees result in better performance.

Street traders’ licences

33. Part 3 of the Bill also amends section 39 (street traders’ licences) of the Civic Government (Scotland) Act 1982 to enable the certificate of compliance, which is required to accompany a street trader’s licence application for mobile food businesses, to be produced by the food authority with which the business is registered. Separate to this provision, it is envisaged that new national standards will be put in place to provide consistency and transparency with a view to reducing, where possible, the costs to mobile food businesses and relevant food authorities associated with production of certificates of food hygiene compliance for street traders’ licence applications.

ALTERNATIVE APPROACHES

34. Some of the provisions in the Bill are intended to replace the existing legislation. In other areas, the Scottish Government has decided to make changes which it believes will better serve the interests of the people of Scotland. In all instances where a policy decision was required, either to replicate or to change an element of the existing system, careful consideration has been given to the policy alternatives and a decision was made on the basis of the available evidence. The following paragraphs make reference to these alternative approaches and explain why the Scottish Government has formed its position.

Regulatory functions

35. The consultation and partial Business and Regulatory Impact Assessment outlined a number of different approaches. These were: defining and implementing national standards and systems; a duty on regulators to promote economic and business growth through regulatory activity; reviews and sun-setting; common commencement dates for future business related legislation; prompt payment; and a transferable/single certificate of compliance for mobile food businesses. The consultation responses showed clear support for an enabling power in relation to national standards and for a transferable certificate of compliance. There was also business...
support for a duty for regulators to contribute to achieving sustainable economic growth, while other respondents highlighted the importance of an approach which ensured that economic factors would be considered routinely and in a balanced way rather than being prioritised. A Code of Regulatory Practice was suggested as a tool for regulators. It was clear that there was no appetite for a legislative approach to the other proposals in the consultation paper, and as such, reviews and sun-setting and common commencement dates will be followed up through non-legislative means.

Environmental regulation

36. One alternative approach to the changes proposed for environmental regulation is status quo. Although current permissioning arrangements for environmental regulation have been in place for a number of years and could be continued, they are unnecessarily complex and inconsistent for both SEPA and those it regulates. In addition, current enforcement options are limited and inconsistent across the four main regulatory regimes with, for example, lower level offences being pursued via the criminal courts. Maintaining activity-based regulation would also not allow the focussing of resource on the higher risk activities, which is likely to be detrimental to protecting and improving Scotland’s environment and lead to an unnecessary burden on the regulated. In contrast, the introduction of a risk-based and integrated framework will lead to a simpler, more consistent and risk-based approach to permissioning and would be implemented together with a more proportionate means of enforcement. This would be supported by major operational change within SEPA to deliver a more flexible, targeted and joined-up approach to regulation. Regulated business will benefit from greater proportionality, more joined-up permissions, simpler procedures, and a more holistic approach from SEPA to tackling new environmental problems and promoting the use of new technologies. Overall, the proposals will be beneficial to the environment through targeting regulatory activity where it adds most value.

Marine licensing decisions

37. The Proposals for a Better Regulation Bill consultation\(^3\) sought views on whether there was any merit in extending the express right of appeal to the Court of Session for people or bodies with a sufficient interest in the project to those classes of decision made by Scottish Ministers under legislation governing infrastructure projects. The status quo means that all challenges are by application for judicial review to the Outer House of the Court of Session. These are appealable to the Inner House and subsequently to the Supreme Court. Judicial review has no time limits for application. The alternative proposed is a statutory right of appeal to the Inner House of the Court of Session with a six-week time limit. This would be appealable to the Supreme Court. It is considered that this alternative option would lead to quicker final decisions. This will benefit Scottish businesses applying for licences, groups and individuals challenging such an application, and the Scottish Government as it will involve less time and expense in court. It is also considered that it will benefit the Scottish economy as a whole.

Planning authorities’ functions: charges and fees

38. Central to the Government’s aspirations for the planning system are improved performance and resourcing of the system. Whilst overall resourcing of the planning service is

\(^3\) http://www.scotland.gov.uk/Publications/2012/08/8403
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the responsibility of local authorities, the Scottish Ministers want to be sure that increased funding through increases in planning application fees leads to improved planning performance by authorities. The Better Regulation Bill consultation sought views on the proposal to give powers to the Scottish Ministers to set the level of the planning fee payable in each authority based on an assessment of performance as well as evidence and views on the most effective mechanism for introducing the proposed link between fees and performance.

CONSULTATION

39. The content of the Bill is predicated on two separate consultation processes described in paragraphs 40-44 below.

Regulatory functions, marine licensing decisions and planning authorities’ functions: charges and fees

40. A consultation cycle about the prospective enterprise content\(^d\) of the Bill was open from 2 August to 26 October 2012. It sought views on: defining and implementing national standards and systems; a duty on regulators to promote economic and business growth through regulatory activity; reviews and sun-setting; common commencement dates for future business related legislation; prompt payment; and a transferable/single certificate of compliance for mobile food businesses. It also sought views on allowing the Scottish Ministers to vary planning application fees based on the performance of a planning authority and extending statutory review mechanisms. Eighty responses were received\(^5\) and an independent analysis of responses to the consultation will shortly be available on the Scottish Government Better Regulation website\(^6\).

In broad terms there was limited support for regulatory steps in relation to sun-setting, common commencement dates for future business-related legislation and prompt payment. There was clear business support for an economic duty on regulators, while other respondents highlighted the importance of a considered and risk-based approach which ensured that economic factors would be considered in a balanced way rather than being systematically prioritised. Some respondents suggested that a Code of Regulatory Practice would be a valuable tool for regulators and regulated businesses. Following further and ongoing dialogue with a range of stakeholders, the Bill features:

- A power to deliver consistent regulation including by means of setting and implementing national standards and systems (for example, in relation to mobile food businesses). A related requirement that a food hygiene certificate produced for a street trader’s licence application for a mobile food business must be from a food authority that has registered the business;
- A duty on regulators to exercise regulatory functions in a way that contributes to sustainable economic growth (in so far as it is not inconsistent with the exercise of those functions);
- Provision for a code setting out how regulators are to apply regulatory principles and good practice in order to find the optimum balance between regulatory and economic

\(^d\) [http://www.scotland.gov.uk/Publications/2012/08/8403](http://www.scotland.gov.uk/Publications/2012/08/8403)
\(^5\) [http://www.scotland.gov.uk/Publications/2012/12/4140](http://www.scotland.gov.uk/Publications/2012/12/4140)
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factors. The code will be developed collaboratively with business representatives, public bodies, regulators and COSLA.

41. In addition to the formal consultation process, Scottish Government officials continue to engage directly with businesses, business organisations, local authorities and the Regulatory Review Group.

42. On proposals to allow the Scottish Ministers to vary planning application fees based on the performance of a planning authority, the balance of respondents broadly favoured the notion of linking fees and performance but most qualified this by counselling caution as to how it was to be done. There was a very clear majority in favour of the proposal to extend the scope of statutory reviews and substantial support, from the relatively small numbers answering the question, for the proposal to extend access to the statutory review mechanism to people or bodies with sufficient interest in the legality of Ministers’ decisions in relation to the granting of a marine licence and extending statutory review mechanisms.

Environmental regulation

43. A joint Scottish Government-SEPA consultation on the environmental permissioning and enforcement content of the Bill was run from 4 May 2012 to 4 August 2012. It outlined the policy agenda for environmental regulation, specific proposals for legislative change and described in broad terms how SEPA would seek to change its operational delivery. Eighty nine written responses were received. The consultation asked whether or not the overall proposals would provide more effective protection of the environment and human health. It also asked for views on specific proposals for legislative change. This included changes to the structure of environmental legislation in order to create a new, integrated framework for the permissions (licences, permits, rules etc.) which SEPA uses to control activities which could harm the environment and changes to the enforcement tools (sanctions such as fines or enforcement undertakings) which SEPA uses to deter non-compliance. An analysis of the responses was published on 20 December 2012. The overall response to the consultation indicated strong support in principle for the proposals in the Bill to introduce an integrated permissioning framework, more direct and proportionate enforcement tools and a more targeted, risk-based approach to regulation. Although there was strong broad support for the proposals, stakeholder views helped to shape the final detail - for example, the decision to restrict the use of publicity orders to the criminal courts.

44. In addition to the formal consultation process, Scottish Government and SEPA officials continue to engage directly with key stakeholder groups to identify and address issues and concerns and to build consensus on the way forward. Open and constructive dialogue continues to be undertaken with a range of key stakeholders, including membership organisations such as the NFU Scotland, business associations such as the Federation of Small Businesses, the Scotch Whisky Association and some of SEPA’s largest customers such as Scottish Water and SSE Ltd.

http://www.scotland.gov.uk/Publications/2012/05/6822
http://www.scotland.gov.uk/Publications/2012/12/6197
EFFECTS ON EQUAL OPPORTUNITIES

45. The proposals in the Bill will help balance the strict level of environmental standards and monitoring with a clear focus on supporting economic growth. They do not discriminate on the basis of age, gender, race, religion, disability or sexual orientation.

46. As part of the consultation process, the Scottish Government held stakeholder engagement events and the opportunity was provided for equality organisations and others to make their representations known on the impact of the programme and the Bill’s proposals. No equality issues or concerns were raised by stakeholders in either written responses or at the stakeholder engagement events.

47. An Equality Impact Assessment (EQIA) has been undertaken and no significant issues have been raised.

EFFECTS ON HUMAN RIGHTS

48. The measures in the Bill are compatible with rights under the European Convention on Human Rights (ECHR).

Part 1 – Regulatory functions

49. Part 1 of the Bill makes provision for regulatory functions, and does not have any effects on human rights.

Part 2 – Environmental regulation

50. Chapter 1 of Part 2 of the Bill provides for a power to make regulations for and in connection with protecting and improving the environment, and has no direct effect on human rights.

51. Chapter 2 of Part 2 of the Bill provides generally for powers to make orders providing for the imposition of fixed monetary penalties or variable monetary penalties, and a power to make an order providing for the making and acceptance of enforcement undertakings. Again, those measures have no direct effect on human rights.

52. The enabling powers in Chapters 1 and 2 are capable of being exercised in a manner that is compatible with Convention rights, and Ministers are required to ensure that measures made in exercise of the powers are so compatible.

53. For example, section 13(2)(f) of the Bill requires Ministers, when making an order providing for fixed monetary penalties, to ensure that a person on whom a penalty is imposed can appeal against the imposition of an order. The court or other body to which appeal may be taken is for Ministers to determine in the order, and Ministers will have to ensure that any system of fixed monetary penalties complies with Article 6 ECHR (right to a fair and public hearing).
54. Chapter 3 of Part 2 of the Bill provides for the disposals that may be made by the courts on conviction of a person for an environmental offence, and no ECHR issues arise in that respect. In particular, Article 6 ECHR is not engaged as measures only apply following conviction, and Article 1 Protocol 1 ECHR (deprivation of property) is not infringed as compensation orders are a penalty imposed in the public interest subject to conditions imposed by law. In addition, the courts must, as a public body, exercise the powers conferred under Chapter 3 in a manner that is compatible with Convention rights.

55. Chapter 4 provides, in particular, for new offences related to vicarious liability for other environmental offences, and for a new offence relating to the causing of significant environmental harm. These are strict liability offences to the extent that a person does not need to have criminal intent in order to be convicted. That is, however, compatible with Article 6 of ECHR as that Article does not prevent the penalisation of a simple or objective fact irrespective of whether it results from criminal intent or from negligence.

56. The other provisions in Chapter 4, and the provisions in Chapters 5 and 6, do not raise any further Convention issues.

Part 3 - Miscellaneous

57. Section 40 of the Bill enables, but does not require, persons aggrieved by certain marine licensing decisions, to apply to the Inner House of the Court of Session for a review of a decision. It does not affect any right of such person to seek a judicial review of a decision that is not subject to the new statutory review. It is therefore considered to be compatible with Article 6 ECHR.

58. The other provisions in Part 3 do not raise Convention issues.

EFFECTS ON ISLANDS AND RURAL COMMUNITIES

59. The Bill has no differential impact upon island or rural communities. The provisions of the Bill apply equally to all communities in Scotland.

EFFECTS ON LOCAL GOVERNMENT

60. The provisions of implementing national regulation standards and systems for local government and other regulators will involve an initial impact on time and resources but there will be efficiency savings in the long term from using a national approach.

61. Implementing an economic duty on all Scottish regulators will result in some additional costs in gathering and reporting on information for local authorities.

62. The requirement, introduced by section 42, that the food hygiene certificate produced for a street trader’s licence application must be from a food authority that the mobile food business has registered with is expected to reduce overall costs for local authorities because fewer compliance checks are likely to be required where certificates are issued by the same registering food authority.
63. The proposals in the Bill cover local authorities’ activities as regulators as well as regulated enterprises (for example, landfill providers). As a regulator there are no impacts from the provisions in the Bill. Where local authorities operate regulated enterprises (for example landfill sites) they will be affected by the provisions of the Bill.

64. As the only involvement with local authorities is normally as consultees in respect of applications for marine licences, the provision to extend statutory review mechanisms will not impact on them.

65. These provisions aim to incentivise improvements in the performance of planning authorities, which will reduce uncertainty and waiting times, ultimately reducing costs for applicants. The Scottish Government will identify and work with COSLA, planning authorities and other stakeholders to address performance issues to ensure that all opportunities are explored before reducing planning application fees that are submitted by the applicant. It is, therefore, anticipated that only authorities that continuously fail to improve performance will be subject to a reduction in fee. The potential of reduced planning fees will help to focus all authorities to deliver a high quality, efficient and responsive planning service focused on continuous improvement.

**SUSTAINABLE DEVELOPMENT**

66. The Bill will have no negative impact on sustainable development. The Scottish Government’s focus on sustainability is explicit within the National Outcomes and associated National Indicators, incorporating all of the aspects of sustainable development, from reducing greenhouse gas emissions and improving resource efficiency to preserving Scotland’s natural environment. As our Government Economic Strategy highlights, as well as being a desired characteristic of growth, sustainability is also an important long-term driver of sustainable economic growth and will be key if we are to maximise Scotland’s economic potential.

67. It is in this context that the provisions in this Bill are expected to lead to largely positive environmental, economic and societal effects and complement existing plans, strategies and measures.

68. The provisions of the Environment Act 1995, which require the Scottish Ministers to provide guidance to SEPA on the contribution it should make towards attaining the objective of achieving sustainable development by performance of its functions, remain and sit alongside the new statutory purpose for SEPA.

69. Strategic Environmental Assessment pre-screening has been carried out on the proposals. The position, supported by the Consultation Authorities, was that that proposed legislation does not in itself lead to any significant environment effects. The rationale for this is that the main purpose of the Bill is to provide the tools to improve the way regulation is developed and applied in Scotland. The Bill does not specify how these will be deployed and does not contain any specific new environmental objectives or targets.
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POLICY MEMORANDUM

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