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## New Measures to Tackle Unnecessary Government Interference and Red Tape

By Christopher J Sherliker

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### Abstract

Business Secretary Vince Cable has announced a package of measures to support the government's determination to cut red tape and unnecessary intervention in business.

Diana Bentley talks to Jennie Kreser, Pensions Partner at Silverman Sherliker, and Elizabeth Hyde, health and safety expert at Eversheds, about the impact of the measures.

### Analysis

While business is already being encouraged to nominate laws and regulations that could be scrapped, the government is taking a more structured stance on removing regulations that can hinder enterprise. A range of new initiatives to cut red tape and to tackle pointless government regulation were announced on 5th August 2010 by Business Secretary, Vince Cable.

"Business is swamped with unnecessary form filling and bad legislation," declares Kreser.

"Pension policy is in disarray with the Department of Work and Pensions and the Treasury failing for years to achieve a 'joined up' programme of regulation displaying any real long term strategy. The NEST proposals are an example of a good idea, poorly implemented, leaving small business in particular in confusion and employees with no clear idea of what their pension might be when they eventually come to retire.

"Small businesses are also hit hard with a minefield of health and safety rules, and employment and pension laws to negotiate. There are now new rules on age discrimination. All of this adds to the cost of doing business."

At Eversheds, Associate Elizabeth Hyde also sees discontent among clients: "Often they can understand the need for regulation — especially in the field of health and safety, but the scale of it often prevents them getting on with trading."

Kreser and Hyde are both sceptical about Cable's new measures. Chief among them is the new One-in, One-out rule which comes into effect on 1st September 2010. Ministers who seek to introduce new regulations which will impose costs on business or the third sector will have to simultaneously identify current regulations of equivalent value that could be removed.

There will also be a set of Principles on Regulation which government departments will have to comply with regarding new regulations that may affect business, social enterprises, individuals and community groups. The Regulatory Policy Committee will scrutinise proposed regulation to vet the worth of new rules and also proposals for the implementation of EU legislation.

Ongoing schemes for regulation management also include a new Your Freedom website — launched last month — which it is hoped will make it easy for businesses to suggest regulations that could be removed or changed.

Ministers will also be charged with taking a more vigorous role in helping shape EU policy, so when EU rules arrive in the UK, they will not unduly restrict British business and put it at a competitive disadvantage to other European-based firms.

But will all this work? "The thinking behind these measures is nothing new," Kreser insists. "The last government brought in the 'Better Regulation Task Force', whose role was to reduce red tape and bureaucracy in government and business. As far as one can tell, it achieved nothing. The coalition government within its first few days announced the abolition of various Non-Departmental Public Bodies (quangos), then promptly announced a new quango to oversee this."

While the government explains the One-in, One-out rule is a regulatory management system under which any new regulatory cost is to be compensated for by cuts to the cost of old laws, Kreser points to a "get-out" clause that could frustrate the aims of the measure.

"Note 4 to the announcement says that regulations in response to emergencies and to address systemic financial risks will be excluded from the One-in, One-out system. I think this could be used a lot." Hyde agrees: "It all sounds good in principle, but we have seen initiatives like this before. As to the One-in, Out-out rule, one regulation going in can't always equate with one going out. And with Clause 4, if the government really wants to push something through, it can."

As to trying to influence EU policy, Kreser says: "If UK governments haven't been doing this already, what have they been doing? The UK has always been thought of within the EU as a reluctant member — maybe because it is — but when it comes to implementing Directives, it has tried hard to implement them faithfully, whereas other members, like France and Germany, have been more pragmatic about implementing them when and how it suits them."

Kreser says pensions are an area where governments have not been prepared to confront the problem of an aging population. "It's a complex debate, so it needs a broad-based policy," she says. But this generally is often not the case. Hyde says in her area of health and safety, a big problem is often inconsistency in enforcement. She believes that only passing new regulation where there is a "plain need" to do so would be preferable.

Kreser adds: "Unless and until the government gets a firm grip on policy in all areas — not moving civil servants around just as they get a handle on a particular area of expertise would be a good start — then chaos will continue to reign and no mere sticking plasters such as another focus group or review committee will solve it."

The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor.

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