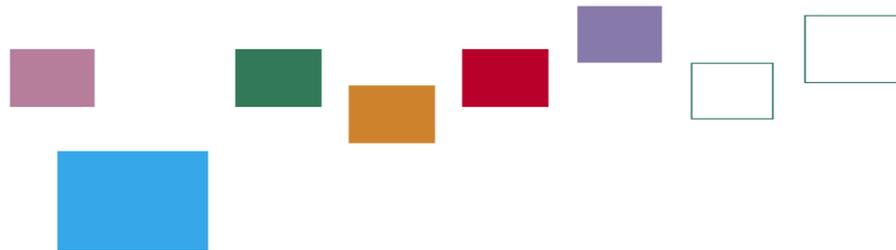




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Better Regulation: The Importance of Central Oversight

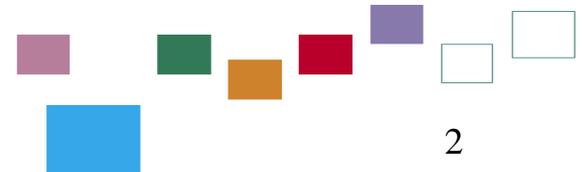
Lisa Hennessy
Better Regulation Unit
Department of the Taoiseach





Background

- Part of Public Service Modernisation and closely linked with Cabinet Secretariat
- Better Regulation Unit established in 2000
- Participation in OECD Review ‘Regulatory Reform in Ireland’ 2000-2001
- Opening up of former state monopolies
- Establishment of Independent Regulators
- Key Issue at European Level





Main findings of OECD (2001)

- Good start already made, but only a start
- Upgrade administrative capacity for Better Regulation e.g. through introduction of Regulatory Impact Analysis
- Accelerate reform and competition in key sectors.





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Response to OECD Review

- Consultation process leading to publication of White Paper *Regulating Better* (Jan 2004)
- 6 principles of Better Regulation & action programme
- Process allowed key actors to feel involved in setting their own agenda- critical to future success

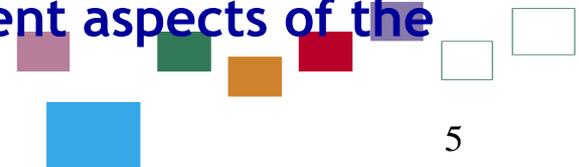




Implementation

- Institutional arrangements to support Better Regulation
- RIA & Evidence-based policy-making (case study)
- Statute Law Revision, Restatement and Consolidation
- Improved access to legislation
- Burden reduction
- Economic Regulation

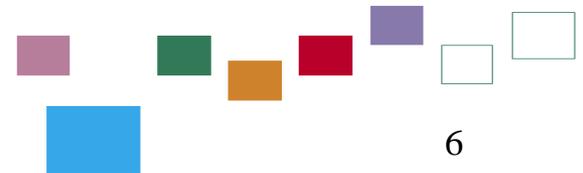
NB. Getting the balance right between different aspects of the agenda





Institutional Supports (1)

- Central co-ordination role for the **Better Regulation Unit (BRU)** in the Department of the Taoiseach
- Specific work areas include **RIA, economic regulation**, supporting the work of the Office of the Attorney General on **Statute Law Revision** and the promotion of the broader Better Regulation agenda.
- BRU supported in its work by the **Senior Officials Group on Economic Regulation** and the **RIA Network**





Institutional Supports (2)

- The **Business Regulation Unit** in the Department of Enterprise, Trade and Innovation co-ordinates work to reduce regulatory burdens on business
- Specific work areas include the reduction of **administrative burdens** on business and **risk-based enforcement**
- Unit is supported in its work by the **High Level Group on Business Regulation** and the **Interdepartmental Group on Administrative Burdens**

NB. A good and clear relationship between the Departments of the Taoiseach and Enterprise, Trade and Innovation. Not always so easy!





Regulatory Impact Analysis: A Case Study in Monitoring

- Since 21 June 2005, Regulatory Impact Analysis (RIA) must be applied to all proposals for primary legislation, significant Statutory Instruments, draft EU Directives and significant EU regulations
- **Supports include:** RIA Guidelines and template; RIA helpdesk operated by BRU; eCabinet Link and dedicated 2 day training course and RIA Network (involving mid-ranking officials)
- An independent *Review of the Operation of RIA* was published in July 2008
- Some of the same issues confirmed by OECD in 2011





RIA: The Good News

Some specific issues raised in the 2008 Independent Review have now been addressed through revised Guidelines and training materials:

- Removing the distinction between full and screening RIAs
- Placing a stronger emphasis on compliance costs, including administrative costs
- Providing specific guidance on calculating public service implementation costs





RIA: The Good News (Contd.)

- Extending the discussion of methodologies (particularly Multi-Criteria Analysis)
- Clarifying significance and proportionality and the exceptions to RIA
- Including more practical examples in Guidelines
- Clarifying the requirement to publish RIAs as an integral part of the RIA process

Note: Independent Reviews give you a real sense of what changes or additions are needed- crucial that as many recommendations are taken on board as possible





Work Still to Do

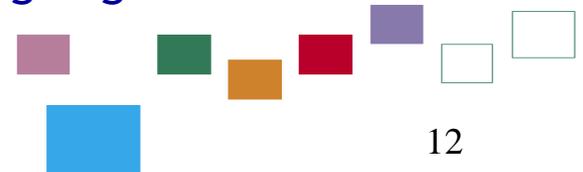
- RIAs are being done on Primary Legislation but quality still sometimes dubious
- Economic Crisis seems to have created a cultural of constant urgency- “no time for analysis”
- RIAs often not published, not published in a timely manner or very hard to find
- RIAs very rarely done on EU proposals or draft Statutory Instruments
- No point just preaching to the converted- stakeholders and Oireachtas could be greater agitators for change





Can You Avoid these Issues?

- There is a benefit to learning from experience of other States-
communicating the message is often overlooked
- Don't expect cultural change overnight but crucial to start to work
skills identification with Departments as early as possible to ensure
that necessary resources are in place, including in the Central Unit.
It will make mainstreaming easier.
- Consider a statutory basis for initiatives like RIA-encouragement and
support is important but sometimes clear obligations also needed
- Crucial that high-level support is meaningful- need to put the work in
early- your Finance Ministry should be involved
- There is a real need for political buy-in. You are going to have to
develop marketing expertise!





Does Ireland Get Anything Right?!!

- The Central Oversight Body being in the Prime Minister's Department really helps in keeping various perspectives and agendas balanced.
- The Unit involves itself directly in training- this means officials know and trust us and operates a clear website which includes access to guidelines and basic on-line training
- There is a sense that Enterprise Departments sometimes only think of the business perspective so as well as central oversight- High Level Stakeholder Fora are useful
- The Unit does not attempt to override the expertise which exists elsewhere





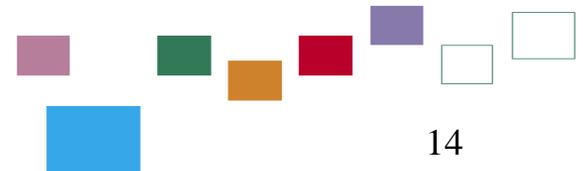
Statute Law Revision



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- Review of all legislation enacted before foundation of state
- Statute Law Revision (pre-1922) Act 2005 enacted on 18 December 2005 repealed 206 obsolete/redundant Statutes
- Statute Law Revision Act 2007
- Repeals 3,225 obsolete Statutes and positively retains some 1364 Statutes
- Further Act on Personal, Private and Local Acts signed December 2009.
- Projects like this can easily capture the public imagination

Note: Again, success of this project in part based on the good relationships between the Department of the Taoiseach and the Office of the Attorney (who have responsibility for research and drafting)





Restatement

- A restatement is an administrative of an Act and its subsequent amendments which is certified by the Attorney General and admissible in Court
- Introduced under the Statute Law (Restatement) Act 2002.
- Programme of Restatement currently being undertaken by the Law Reform Commission
(www.lawreform.ie)
- Programme includes: Ethics in Public Office, Firearms, Civil Liability, Employment Leave and Proceeds of Crime Legislation

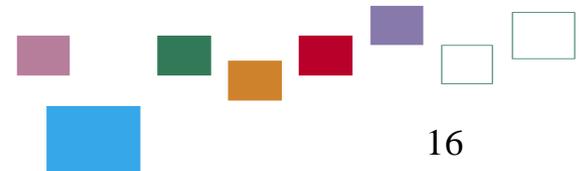




Consolidation

- White Paper, *Regulating Better*, stated that a stronger programme of consolidation was needed
- A number of programmes of review and consolidation have been put in place across key economic sectors e.g.
 - **Company Law**
 - **Land Law and Conveyancing**
 - **Customs Law**

Note: Relations with these Departments can be ad hoc and need to be managed





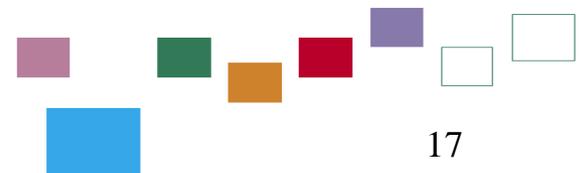
eStatutory Instruments System

Under old arrangements: Inefficiencies and accuracy issues

New Electronic System:

- Final version of SI available electronically on day official notice appears
- Accurate and suitable electronic format of SI for online Statute Book

Note: Department of the Taoiseach was able to provide the leadership necessary to achieve this





Addressing Burdens

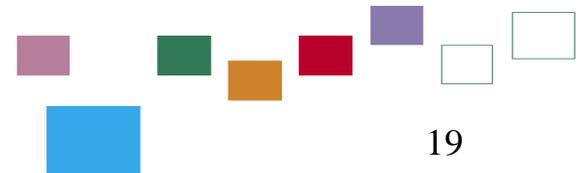
- High-Level group to monitor and further advance the Better Regulation agenda, focusing, in particular, on the reduction of administrative burdens in key areas:
 - Company Law
 - Employment Law
 - Health and Safety
 - Environmental Law
 - Statistical Returns
- Membership of Group includes High-Level Departmental officials, business representatives and representative of ICTU. Crucially, Department of the Taoiseach and Department of Finance sit on this Group





Addressing Burdens (2)

- Government Decision in March 2008 that unnecessary Administrative Burdens on business arising from national legislation would be reduced by 25% by 2012. 4 Year Plan brings this forward to end 2011.
- Reflects target in relation to EU legislation
- Involves a major measurement and reduction exercise across all Departments. Co-ordination and networking again crucial
- Burdens are not always purely administrative- Risk Based Enforcement Group





Government Statement on Economic Regulation

- Government Statement on Economic Regulation published in October 2009 and relates to independent Economic Regulators

Covers topics such as:

- Governance and Accountability
- Appropriateness of Structures and Mandates
- Costs and Driving Efficiencies
- Engagement with Stakeholders

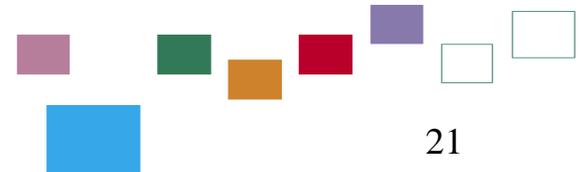




Key Elements

Governance and Accountability

- Statements of Strategy and integrated Annual Reports/Annual Output Statements (encompassing Public Interest Statements)
- Performance Indicators
- **Annual Regulatory Forum**
- Testing Regulatory Frameworks
- **Regulatory Capacity** within Departments and Regulators
- Commission and board structures
- **Parliamentary Scrutiny**
- Structured Co-operation between Regulators
- Appeals





Key Elements (2)

Appropriateness of Structures and Mandates

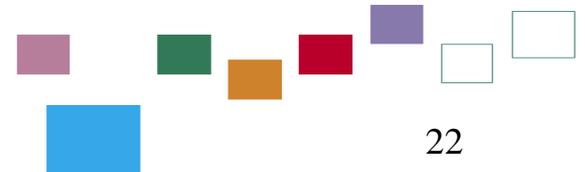
- 5 yearly Reviews
- Powers concurrent with the Competition Authority

Costs and Driving Efficiencies

- Scrutiny of Budgets and Levies
- Cost Levels
- Amalgamations

Engagement with Stakeholders

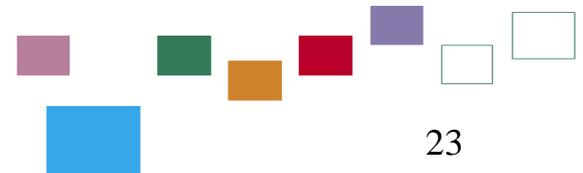
- The Consumer Interest
- Consumer and Industry Consultation





Some More Thoughts from the Irish

- *“Think like a wise man but communicate in the language of the people”- William Butler Yeats*
- *“We are made wise not by the recollection of our past, but by the responsibility for our future.” - George Bernard Shaw*
- *“Experience is the name everyone gives to their mistakes”
-James Joyce*





Roinn an Taoisigh
Department of the Taoiseach

Further information:

www.betterregulation.ie

E-mail: betterregulation@taoiseach.gov.ie

