

## **Submission from the Federation of Small Businesses**

### **Introduction**

The FSB is Scotland's largest direct-member business organisation, representing over 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper. We welcome the opportunity to submit comments to the Committee.

The FSB has taken a close interest in the development of non-domestic waste policy in Scotland, frequently commenting on business waste strategies and consultations. This is because we recognise the demand from many small businesses to become more resource efficient and, in particular, to improve recycling options available to them. Despite rising waste disposal costs in recent years, practical and affordable alternatives have been thin on the ground for many firms and the lack of progress on the issue under successive governments has been disappointing.

We therefore welcome the clear direction outlined in the Zero Waste policy statement - ultimately this is the only way to stimulate and develop the market. Nonetheless, we expect Zero Waste regulations to be the most wide-reaching environmental legislation for Scottish businesses in many years. As a result, we need to get a better understanding of the impact of the regulations on small businesses and prepare fully for implementation.

The FSB is involved in regular discussions about the regulations with a number of relevant stakeholders. It is worth noting that we have found both the Scottish Government and Zero Waste Scotland to be very open to engagement and discussion. At this stage (prior to seeing the regulations) we have raised a number of issues with the Scottish Government; some relate to concerns about how the regulations will work in practice, some are suggestions to improve implementation. These issues are outlined below, in no particular order.

### **Impact on Small Businesses**

#### *Overview of Current Situation*

The new regulations will affect all businesses producing waste, unlike most recent changes to waste and environmental regulation. Small business owners have become increasingly frustrated that improved recycling options open to them as householders are not available to them as businesses. While most small businesses produce limited

amounts of non-hazardous waste, similar to households, the regime for business waste is very different, but this is not well understood by many businesses.

A competitive market in business waste collection does exist but it is patchy, with little competition in many areas. Our evidence suggests that only 15% of members use a private waste management company<sup>1</sup> with the remainder relying on the service offered by their local authority. Local authorities then, have a crucial role to play in these regulations and their impact on small businesses.

We are aware that some local authorities have been proactive and developed the services and facilities available to small businesses e.g. Fife and Perth and Kinross. However, many have remained unresponsive and mapping exercises carried out by SEPA have demonstrated the limited services available to businesses<sup>2</sup>.

Despite membership data showing that 46% recycle waste and 26% have reduced their waste in response to climate change<sup>3</sup>, we believe that over 80% of our members may be recycling *some* of their waste<sup>4</sup> but only 43% indicate that they are happy with the recycling options offered by their local authority<sup>5</sup>.

### *What will Change?*

The regulations stipulate source segregation and a landfill ban on key recyclable materials of: paper, card, glass, metals and plastics, with food waste to be added for small businesses from 2015. The Scottish Government has also indicated that local authorities should offer the same recycling collection service to businesses as it offers to businesses (though businesses are charged). This is a crucial development.

Many businesses will have no objection to the principle of recycling these types of waste. However, difficulties are likely to arise around the practical introduction or increase in recycling, particularly if the business is reliant on the scheme offered by their local authority. Potential obstacles include:

- Storage of recyclate in small premises and availability of suitable receptacles (especially the avoidance of fire risk)
- Frequency of scheduled collections
- Flexibility of collections

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<sup>1</sup> FSB monthly membership survey, November 2010

<sup>2</sup> SEPA, Report of Survey Responses, Business Waste Framework Action 3.5

<sup>3</sup> p41, FSB-ICM Voice of Small Business Annual Survey, Scotland Report, 2010

<sup>4</sup> Lifting the Barriers to Growth Scotland, FSB Membership Survey 2008

<sup>5</sup> FSB monthly membership survey, November 2010

- Pricing structure which is prohibitive
- Availability of alternative facilities e.g. community recycling centre
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Overcoming these difficulties may represent a greater or lesser burden to the business depending upon its sector, size, amount of waste produced, current waste prevention measures, current rate of compliance, premises and location (and therefore the existence of alternative suppliers).

This range of variable factors makes it difficult to assess the exact cost to a small business of becoming compliant with the regulations. However, we believe that more case studies should be developed, both to better understand the cost and time implications of the regulations for small businesses and to provide realistic advice and guidance of what will be expected of them.

We also hope that local authorities consider the points above when introducing new services for small business customers. We recognise that additional investment by councils will be necessary, however in simple terms landfilling waste costs councils, whereas increased recycle offers income. Small businesses are likely to be disappointed and angry if they feel that new regulations are used as a justification for exploiting business waste charges.

## **Timetable**

We note the decision for the regulations to come into effect 'by the end of 2013'. We have recommended to the Scottish Government that, in line with best regulatory practice, they consider using the common commencement date of 1<sup>st</sup> October.<sup>6</sup>

We welcome the Scottish Government's decision to delay implementation of food waste collection for small businesses until 2015 since this is likely to be amongst the most difficult practical issues and may need a longer lead-in time. We also suggest that if food waste macerators are to be banned from the end of 2015, advice to this effect should be passed to, for example, architects and building standards (centrally and locally) likely to be involved in plans for business kitchen/catering developments at the earliest opportunity, in order to avoid wasted investment.

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<sup>6</sup> Common commencement dates ensure that new regulations take effect at the same time to make it easier for businesses to be aware of upcoming regulatory change. The UK government generally uses 1<sup>st</sup> April and 1<sup>st</sup> October.

Overall, the timescale for implementation is relatively tight, leaving waste collection bodies limited time to introduce necessary facilities.

## **Enforcement Policy & Local Authorities**

Based on recent experience of regulatory change in Scotland<sup>7</sup>, many problems for businesses arise around implementation and enforcement. Such matters tend to receive little consideration during the scrutiny of legislation yet are critical to avoiding unnecessary burdens on small businesses.

Different approaches by local authorities (for no apparent reason) can lead to a postcode lottery approach to regulation for businesses. We are also aware of isolated examples of enforcement against small businesses disposing of waste in a well intentioned but inappropriate manner e.g. taking waste home or using public recycling bins.

We are keen to avoid this and ensure an agreed Scotland-wide approach for implementation and enforcement. This would create the right environment for such widespread change. For example, an enforcement policy would help ensure the same information and advice was issued to businesses; that timescales for 'soft' implementation could be agreed; and that we consider how to deal with non-compliance.

While there is general consensus that serious problems with enforcement are unlikely, from our experience of the regulatory landscape in Scotland we do not believe that the positive approach outlined above will happen as a matter of course. It will require a concerted effort and commitment by interested parties, particularly local authorities, to commit to discussions. We have suggested this to the Scottish Government and Zero Waste Scotland and hope the idea will be progressed.

More generally, local authorities have a key role to play in their liaison with businesses. We believe that staff from waste, environmental health, planning and building standards might all be involved so internal discussions about implementation would also be helpful. For example, environmental health officers are best-placed to advise catering businesses about forthcoming changes for food waste. This advice should begin as soon as possible as part of routine business inspections. Agreement between waste and environmental health officers would provide a joined-up, efficient approach.

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<sup>7</sup> RRG Report on the introduction of the Licensing Act, difficulties reported around implementation of the Knife Dealers' Licensing Scheme.

## Costs

We responded to the consultation on the Business Regulatory Impact Assessment (BRIA) prepared as part of these regulations<sup>8</sup>. We recognise that a great deal of work has gone into assessing costs and opportunities associated with the regulations. However, these are largely on a Scotland-wide basis and recognise savings and income opportunities associated with greater recycling and resource efficiency. There is relatively little detail about the actual cost to a business of complying with the regulations which is, after all, one of the primary purposes of the BRIA. As outlined earlier, we believe that more case studies would help provide a more comprehensive understanding of the costs to the majority of Scotland's businesses.

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<sup>8</sup> [http://www.fsb.org.uk/policy/rpu/scotland/assets/cr\\_eww\\_zerowaste\(scotland\)regulations%20-%20draft%20bria.pdf](http://www.fsb.org.uk/policy/rpu/scotland/assets/cr_eww_zerowaste(scotland)regulations%20-%20draft%20bria.pdf)