

*Summary*

Simplifying company regulations –  
the Government still has a long way  
to go (RiR 2012:06)



## Simplifying company regulations – the Government still has a long way to go

The smooth running of society requires regulations appropriate to the task. As with other parts of society, trade and industry and companies are governed by a series of regulations. Very often, these regulations will benefit companies, for example, by creating equal conditions from a competition perspective. Such regulatory restrictions on companies may relate to start-ups, accounting, bookkeeping and tax collection.

Regulations also give rise to costs. In addition to the direct costs incurred by companies in the fulfillment of their obligations, regulations also give rise to a range of indirect effects at company and societal level. For example, rules and regulations can impact on the pressure of competition, investment decisions and the ability of companies to adapt to changes in society.

The issue of simplified regulations to facilitate business activity has long been of interest. From 2006 to 2010, the Government made efforts to further simplify the rules and regulations for companies, an initiative which has continued under the present Government. According to the Government, the simplification of regulations is an important means of achieving its overall objective of improving inclusion of marginalized groups in society by creating more jobs in more numerous and growing companies.

### Audit background

*Reasons:* The Government's overall objective for its work of simplifying regulations during the period 2006–2010 was to bring about a noticeable positive change to the day to day life of businesses, an objective which has been retained by the present Government. A key intermediate objective of the work of simplifying regulations is one of reducing the administrative costs of companies caused by State rules and regulations by 25 per cent by 2010 (now extended to 2012).

Administrative costs decreased somewhat during the 2006–2010 term, but this reduction was far from the objective set. In several areas, such as taxation, administrative costs have on the contrary increased. The Government has noted that administrative costs do not capture all the costs companies have as a result of rules and regulations, but also points out that companies have seen several improvements that fall outside the scope of the criteria measured. However, the extent to which these improvements have affected the overall objective is unknown.

*Aim:* The aim of the audit is to investigate the extent to which the Government's overall objective for its work of simplifying regulations has been achieved. Have companies experienced a noticeable positive change in their day to day life. Based on this result, the Swedish National Audit



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Office (SNAO) also analyses whether the Government's intermediate objective and tools contribute to the achievement of the overall objective and whether they are designed in an effective manner.

*Implementation:* The SNAO interprets the Government's overall objective to be that companies are to experience simpler rules and regulations. The SNAO has therefore carried out a questionnaire survey of 4 000 randomly selected companies addressing questions on the companies' view of the regulatory burden today and of the development of the regulatory burden over the past five years. With the help of document studies and interviews, the SNAO has also investigated whether the Government's intermediate objective and tools contribute to the achievement of the overall objective.

The SNAO has also undertaken an in-depth analysis of five proposals of new legislation that have led to an increased regulatory burden in the area of taxation. The aim was to investigate why the administrative costs of companies have increased in the area of taxation despite the Government's efforts to simplify regulations. The analysis has been performed by assessing the legislative preparatory process, which embraces a number of Government tools for simplifying regulations.

## **Audit findings**

The audit has resulted in the following key findings and conclusions.

### *Few companies have experienced simpler regulations*

According to the results of the SNAO's questionnaire, the objective of a noticeable positive change to the day to day life of companies is far from being achieved. As many as 73 per cent of companies responded that they have not noticed any change in the regulatory burden or, on the contrary, believe that the rules and regulations have become more complicated over the past five years. Only 14 per cent of companies believe that the rules and regulations have become simpler or much simpler. The regulatory area that companies find most burdensome is that of accounting and bookkeeping, particularly for small companies. Second most burdensome are tax and VAT regulations, an area to which this audit applies a special focus.

### *The selection of intermediate objective and evaluation criteria is too narrow*

The Government has selected the reduction of the administrative costs of companies by 25 per cent by 2012 as the intermediate objective of the work of simplifying regulations. This objective is the only one the Government has measured during the audited period of 2006–2010. Still today, no other quantifiable evaluation criteria exists. Administrative costs are defined as the costs of *preparing, storing or transferring information or data as a result of State regulations*. In its action plan, the Government justifies its choice of focusing on administrative costs by saying that there is an internationally accepted method of measuring these. No further discussion, however, is presented as to why administrative costs in particular should be prioritized ahead of other costs



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caused by regulations. The Government also describes a chain of effects that starts with reduced administrative costs and continues via greater enterprise to the objective of increased employment and growth.

The SNAO observes that the definition of administrative costs is narrow and excludes many direct costs resulting from regulations, such as the costs of adapting products, the time spent on staying updated with current regulations and also investment costs. The questionnaire responses from the SNAO's survey of companies also demonstrate that administrative costs constitute only a limited portion of these direct costs. Only two of five companies state that administrative costs are the most burdensome cost when given a choice from several alternatives.

Research in the area also demonstrates that the so-called indirect costs of regulations, such as the effect of regulations on companies' investment activities and profit dynamics, are often of greater significance for enterprise and growth than the direct costs. These indirect costs are also excluded when focusing on the administrative costs, something which is particularly problematic considering that the Government's ultimate objective of its work of simplifying regulations is to increase employment and growth.

The SNAO is of the opinion that it is not sufficient to measure administrative costs alone in order to assess the achievement of the overall objective in such a complex area as the simplification of regulations. Current evaluation criteria fail to capture significant portions of the costs and problems of companies that may be linked to regulations. Broader evaluation criteria would also capture positive changes resulting from simplifications that are currently not detectable in Government measurements. The World Bank demonstrates, for example in its "Ease of Doing Business" index, that it is possible to analyse the regulatory burden at a more comprehensive level.

*The main focus of the work has been placed far out in the regulatory chain*

The Government in its work of simplifying regulations has not decided upon which regulatory areas are priorities and developed proposals for simplifications in these areas. Instead, the Government has chosen to issue open and identical assignments to ministries and around fifty agencies in order to obtain their proposals for simplifications. The perspective has been to leave no stone, great or small, unturned. According to several of the agencies interviewed by the SNAO, a large part of the regulatory burden is to be found in Laws and Ordinances rather than in the regulations over which the agencies themselves decide. Amendments to legislation are indeed clearly in the majority among the regulatory changes that have yielded both the greatest cost decreases and the greatest cost increases.

The SNAO's survey of companies demonstrates that one third of small companies believe that the task of finding information and staying informed of current regulations is difficult. This result means that there is reason to reflect on whether the chosen method, with small, gradual



simplifications of regulations targeted at administrative costs, is the optimal one for small companies.

In summary, it is the assessment of the SNAO that the working procedures used to simplify regulations has not been designed in a strategic way. The SNAO is of the opinion that the work would have benefited from having a clearer top-down direction in which the Government had determined prioritized regulatory areas.

### *Conflicting objectives complicate regulatory simplification*

The Government's ambitions to simplify regulations are high. Despite this, however, the administrative costs within such a key area for companies as taxation have increased. A principal explanation for these increased costs is that the Government has prioritized a more effective tax control with a view to reducing unreported employment and tax evasion in certain sectors ahead of reduced administrative costs for companies. There is a clear conflict of objectives between that of creating fair competition between companies and that of reducing administrative costs. It is not only in the area of taxation that the work of simplifying regulations has been hampered due to conflicts between different objectives. In agriculture, for example, regulations on supervision and disease control have clashed with the simplification of regulations.

However, the conflict of objectives in the area of taxation becomes even more interesting from a simplification perspective since *both sides* of the conflict deal with the situation of companies. On one side of the conflict of objectives lies hopes of an improved situation for companies with respect to competition, and on the other side lies the ambition to reduce the same companies' administrative costs. Improved competition as a result of more effective means of tax control is to be considered a positive indirect effect of regulation but as we have reported above, Government measurements do not include indirect effects. The paradox is thus that only one side of the conflict of objectives is able to generate a positive outcome in the Government's measurements of the administrative burden despite both sides possessing great potential for improving the situation of companies.

The results of the SNAO's questionnaire survey demonstrate that companies' experienced the introduction of cash registers as more burdensome than the introduction of personnel ledgers. The cost of a cash register is however not included in the Government's measurements since investment costs are not defined as an administrative cost. Neither is the cost of companies for adapting their systems to the reverse charge for VAT included in these measurements.

The problems associated with a conflict of objectives in the area of taxation demonstrate in a tangible way that administrative costs constitute a much too narrow base upon which to pursue the work of simplifying regulations. This analysis instead underlines the importance of attempting to calculate all the national economic effects of regulations in the impact assessments.



*Impact assessments do not illustrate the effects on companies*

The SNAO is able to confirm that there is a clear conflict of objectives between improved competition and reduced direct costs for companies. The audit analysis of the tax proposals that have led to increased costs demonstrates however that the different aspects of the conflict of objectives are not fully described. The impact assessments upon which the proposals in the area of taxation have been based are generally very inadequate. Fundamental requirements for impact assessments with respect to reporting the proposals' effects on companies are not fulfilled. Alternative proposals for achieving the aim of a regulation change are often lacking. For a majority of the audited proposals, the Government provides a discussion of the administrative costs arising from measures, but only very briefly states that the advantages of the proposals outweigh their disadvantages. There is no further explanation as to how the assessment was reached and upon which calculations and documentation this was based. This lack of explanation of the proposals' effects on companies has also been a recurrent theme in the responses of the referral bodies. The fact that several new supervisory measures have been introduced in certain sectors intensifies the problem. Nowhere is it possible to obtain an overall picture of the proposals' effects on companies.

Also the audit performed by the Swedish Better Regulation Council demonstrates that impact assessments are often inadequate in their description of the effects on companies. Since the establishment of the Council, the proportion of inadequate impact assessments has been approximately 55 per cent.

The SNAO is of the opinion that the person preparing a proposal bears a great responsibility to ensure that all the effects on companies are investigated in accordance with the requirements of the Impact Ordinance and corresponding provisions for the Government Offices and the committees. Inadequate supporting documentation may in the long term lead to a sub-optimization of society's resources.

*The mandate of the Swedish Better Regulation Council is limited*

The establishment of the Swedish Better Regulation Council is one of the Government's most important initiatives for raising the quality of new and amended regulations. The Council's findings indicate that regulators have become better at accounting for the administrative costs of companies, which is the part of the impact assessment upon which the Council's statement is based. At the same time, the proportion of inadequate impact assessments has not decreased. Based on the fact that many of the companies' costs are not of an administrative nature, there is reason to consider whether the Council's statement should not encompass the proposals' total effects on companies, that is, a majority of the content of the impact assessment.



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In August 2011, the Government decided upon a supplementary directive for the Swedish Better Regulation Council which shifts the Council's function towards a more advisory role. Such a shift runs the risk that the Council will be too close to those they are commissioned to audit. In addition, there are currently several State actors which are already responsible for providing advice and support in the drafting of impact investigations. Further increasing the Council's supportive function at the cost of its supervisory role is not likely to promote its total function.

### **The Swedish National Audit Office's recommendations**

Based on the audit's findings and conclusions, the SNAO recommends the Government to work more strategically by

- developing and introducing intermediate objectives and indicators in order to follow-up the work of simplifying regulations towards the overall objective, in addition to the measurements of administrative costs; the SNAO looks favourably upon the Government's initiation of such work
- clearly prioritizing important regulatory areas and focusing more on the regulatory burden of Laws and Ordinances
- tightening the application of the Impact Ordinance and corresponding provisions so that
  - impact assessments fulfil the requirements of reporting the proposals' effects on companies
  - the follow-up of existing rules and regulations is improved
- considering a widening of the mandate of the Swedish Better Regulation Council so that the Council's statements take into account the total impact of regulation on companies, not only the administrative costs of companies.

