

**Final  
Business and Regulatory Impact Assessment**

**South of Scotland  
Enterprise Bill**

**October 2018**

# Final Business and Regulatory Impact Assessment

## Title of Proposal

### South of Scotland Enterprise Bill

## Purpose and intended effect

- **Background**

In May 2016, the First Minister announced an end-to-end review to ensure that our public agencies are delivering the joined up enterprise and skills support that Scotland's young people, universities, colleges, businesses and workers need to increase sustainable economic growth. The findings of Phase 1 of this review<sup>1</sup> recognised the unique challenges faced in the south of Scotland and the need to do things differently in the south of Scotland to improve the area's productivity and make a step-change in its growth. It recommended the creation of a new vehicle to meet the enterprise and skills needs of the region, and an undertaking that Phase 2 of the review would explore how best to create this new vehicle.

The Enterprise and Skills Review Phase 2 report<sup>2</sup>, published June 2017, set out the outcome of the project which considered the recommendation for a new organisation for the south of Scotland and what form that should take. It concluded that the best outcome to meet the enterprise and skills needs of the area was to create a new public body through primary legislation. Recognising that it takes time to take legislation through the Parliament, the report also committed to putting in place interim arrangements to ensure that the south of Scotland benefits from a new approach as early as possible. The South of Scotland Economic Partnership has been established for this purpose, bringing together the private, third, and further and higher education sectors as well as the seven key public sector organisations supporting economic development in the south of Scotland.

The Programme for Government 2018, published on 4 September 2018, confirmed that legislation to establish a new public body would be introduced to the Scottish Parliament during 2018. The new enterprise body for the South of Scotland will drive inclusive growth and ensure that the region benefits from a new approach that supports a diverse and resilient economy, sustains and grows communities, and harnesses the potential of people and resources.

<sup>1</sup> <https://beta.gov.scot/policies/economic-growth/enterprise-and-skills-review/>

<sup>2</sup> [Enterprise and Skills Review report on Phase 2: South of Scotland Enterprise Agency, 22 June 2017](#)

- **Objective**

The Scottish Government's central purpose across Scotland is to create a more successful country with opportunities for all to flourish, through increased wellbeing, and sustainable and inclusive economic growth. To deliver that, Scotland's economic strategy focuses on four priorities of Investment, Innovation, Inclusive Growth and International Outlook.

The Scottish Government has set out its ambition for the future of the South of Scotland which is to ensure that the area has:

- Businesses with increased productivity, ambitious for the future, investing in innovation and offering good conditions of employment paying higher wages;
- A skilled workforce with both the skills needed now, and the ability to develop the skills needed for the future;
- More opportunities for young people so that they can see a future in the area, and to attract people who want to locate in the area;
- Communities better equipped to play a greater role in the economic, social and environmental success of their area; and
- A clear commitment to inclusive growth, taking a holistic look at the barriers that are getting in the way and taking action to address them.

The development of a new enterprise and skills body for the south of Scotland will help drive economic growth, increase competitiveness and tackle inequality in an area of Scotland that has a different economy. It will deliver a tailored approach and recognise distinctiveness of the region. Its overarching aims, under which activities will be based, are to:

- Maximise the area's contribution to Scotland's inclusive growth, supporting a diverse and resilient economy
- Sustain and grow communities, building and strengthening communities with a joined up economic and community support
- Harness the potential of people and resources – developing skills, promoting assets and resources and maximising the impact of investment in the area

The new body will work to support this ambition, taking a bespoke approach to lead transformational growth, increase competitiveness and tackling inequality at all levels. It will support inclusive growth and fair work in all its endeavours.

- **Rationale for Government intervention**

The Enterprise and Skills Review Phase 2 report recognised the specific and unique challenges which the south of Scotland faces, including those related to demographics, rurality and connectivity, the business base, and wider economic performance. More specifically these challenges include:

- An ageing population with an out-migration of young people and difficulty in ensuring attractive opportunities for them to return to
- Challenging physical and digital connectivity
- A number of fragile towns across the area

- A low output per head with low productivity
- Sectors with traditionally low wages and with fewer higher skilled jobs.
- A business base dominated by micro and small businesses with a lower number of businesses being started, with less investment in innovation and research and development

The new body is an opportunity to address these challenges, meet the area's enterprise and skills needs, and transform the economy to ensure that it reaches its potential. It will help contribute to the following national outcomes:

- we have thriving and innovative businesses, with quality jobs and fair work for everyone
- we have a globally competitive, entrepreneurial, inclusive and sustainable economy
- we are well educated, skilled and able to contribute to society
- we live in communities that are inclusive, empowered, resilient and safe
- we are open, connected and make a positive contribution internationally
- we tackle poverty by sharing opportunities, wealth and power more equally

## **Consultation**

The proposals for the new South of Scotland Enterprise body have been developed through wide-ranging and on-going consultation as outlined below.

- **Within Government**

In developing the proposals, and prior to the written consultation, engagement within Central Government involved consultation with Scottish Government officials in the following Directorates:

Economic Development  
 Agriculture and Rural Economy  
 Fair Work, Employability and Skills  
 Local Government and Communities  
 Constitution and External Affairs

A number of public bodies were also consulted - Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, Scottish Funding Council, VisitScotland – as well as Scottish Borders Council and Dumfries and Galloway Council. The Scottish Government also engaged with higher and further education interests. A working group, chaired by the Scottish Government, brought together these interests to inform and shape the proposals.

- **Public Consultation**

Engagement with stakeholders – particularly from the business community – has been central to the process since the start of the Enterprise and Skills Review which included a public call for evidence and workshops facilitated by the Scottish Government which brought together businesses across the area to inform the proposals.

Subsequently, a public consultation ‘Consultation on a new Enterprise Agency for the South of Scotland’<sup>3</sup> invited views on the shape and role of the new Enterprise Agency to prepare for the legislation. During the 12 week consultation period which ended in June 2018, a series of 26 engagement events were also held at locations across the south of Scotland aimed at helping local community feed into the consultation process. Facilitated by the South of Scotland Economic Partnership these were attended by over 500 people.

268 individual responses to the consultation were received. Individual responses, where permission was given for publication, can be found [here](#), and an analysis of consultation responses has been published<sup>4</sup>. Feedback from the consultation events has also informed this<sup>5</sup>.

A discussion session ‘Creating a new Enterprise Agency for the South of Scotland’ was also held at the National Economic Forum held in Dumfries on 16 May 2018. Hosted by the then Cabinet Secretary for Economy, Jobs and Fair Work this session was attended by over 25 senior figures from across business, the third sector, and the wider public sector.

- **Business**

As noted, wide engagement has been ongoing from an early stage. During Phase 2 of the Enterprise and Skills Review, which considered a new vehicle to meet the enterprise and skills needs of the region, three workshop sessions were held in the south of Scotland for business in the area. These engagement events, held during March and April 2017, provided an opportunity to hear directly from business, and were attended by almost 50 businesses.

Prior to the consultation, in November 2017 the Scottish Government met with seven companies within the south of Scotland (three based Dumfries and Galloway, four based in the Scottish Borders). Following the consultation, a further five face to face meetings were held with individual businesses: two located in Dumfries and Galloway, three located in the Scottish Borders. Reflecting the business base within the area, most of these companies were small (with one medium and two large companies). They represented a range of sectors including Food and Drink, Agriculture, Forestry, Manufacturing and Creative/Arts. See also the Scottish Firms Impact Test section.

25% of responses to the consultation were from business (16%) or local business organisations (9%). Some responses from national organisations also represented business interests. Business representatives also attended many of the public engagements events previously referred to, ranging from representatives of larger business to self-employed individuals and representing approximately 26% of attendees. This provided an opportunity for these businesses to feed in their views on the shape and role of the new body.

The South of Scotland Economic Partnership (SOSEP) – established to help prepare the way for the new body – also has an important role in helping inform the design, and has members from the private and third sector with experience in a range of sectors

<sup>3</sup> <https://beta.gov.scot/publications/consultation-new-enterprise-agency-south-scotland/>

<sup>4</sup> [South of Scotland Enterprise Agency: Consultation Analysis Report](#)

<sup>5</sup> [Stakeholder Engagement](#)

important to the area's economy, covering businesses of different sizes, sectors and geographies. SOSEP is engaging with a wide range of stakeholders across the area, bringing in a range of perspectives.

## Options

The Enterprise and Skills Review Phase 2 project considered the recommendation, from Phase 1 of the review, to create a new vehicle to meet the enterprise and skills needs of the south of Scotland. It explored five potential options for the structure of the new body to determine how the aims and objectives could be delivered most effectively. These options are listed below.

1. A partnership with no statutory basis, supported by a legally binding partnership agreement
2. A structure supported by local government legislation, enabling public and private participation
3. A new company owned by relevant public sector bodies
4. Delivery under the auspices of an existing public body
5. A new public body established under primary legislation

The Phase 2 project fully evaluated, consulted and reported its findings<sup>6</sup>. Each option had its own strengths, delivery timetable and associated costs. And to be successful, there needed to be a strong commitment from stakeholders to ensuring the new organisation's success. The review concluded that the best outcome to meet the enterprise and skills needs of the south of Scotland was to create a new public body through primary legislation. This would demonstrate the Government's commitment to transformational change and inclusive growth. It would ensure that the new organisation was autonomous, had its own identity, staff and budget and could act as a voice for the area.

## Financial Implications

There are financial costs for setting up a new body through primary legislation. This relates to the costs of setting up the new body, and on-going administration and operation of the new body to support the delivery of its aims and functions.

The table below summaries a best estimate of the set-up and operating costs. One-off set up costs incorporate the estimated costs associated with establishing the new body including recruitment and project staffing, and set-up costs for ICT and digital, branding and website, and estates. Running costs estimate the annual running cost, including staffing, remuneration, corporate services, ICT and digital and estates. These are based on various assumptions about potential operating models taking into account matters such as staffing, location, services and activities. More information on the cost estimates are be contained within the Financial Memorandum for the Bill.

It will be for Scottish Ministers to decide the overall budget allocation for the new body as

<sup>6</sup> [Enterprise and Skills Review Report on Phase 2: South of Scotland Enterprise Agency, 22 June 2017](#)

part of the relevant Scottish Government budget process in future years, and for the chair and members to make operational decisions about the detail of how the body best uses its budget to deliver its aims.

Costs (£000)		2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
One-off programme costs	Low	83	312	2,032	180	0	0
	High	83	362	4,506	365	0	0
Recurring costs – operational running costs	Low	0	0	740	6,295	8,965	9,215
	High	0	0	1,067	8,290	12,010	12,345
Total	Low	83	312	2,772	6,475	8,965	9,215
	High	83	362	5,573	8,655	12,010	12,345

### Sectors and groups affected

Based on the proposed overarching aims of the new body, the following sectors and groups are identified as those who may be affected when it is established.

#### Businesses within the south of Scotland

One of the aims will be to further the economic development of the area – maximising its contribution to Scotland’s inclusive growth, supporting a diverse and resilient economy.

The south of Scotland is dominated by small business, which are often family owned, with self-employed and community based business a key part of the economic base.

Traditional sectors within the area include agriculture, forestry, tourism, and hospitality but the area has growing strengths in a diverse range of other sectors including construction, energy, life sciences and creative industries.

The new body will take forward activities to drive forward the economy, support inclusive growth and help business across the south of Scotland to reach their potential. Businesses will benefit from work to support business start-up, sustainability and growth - increasing productivity and competitiveness, and supporting a diverse and resilient economy. Such activities may include joining up existing support, setting up business networks and clusters, or developing business spaces<sup>7</sup>. Businesses in the area will also benefit more generally from a skilled workforce.

<sup>7</sup> Consultation on a new Enterprise Agency for the South of Scotland

### Communities

The new body's overarching aims include to sustain and grow communities, supporting them achieve their economic potential and enjoy increased prosperity. The Scottish Government ambitions for the area include ensuring that the area has communities better equipped to play a greater role in the economic, social and environmental success of the area.

The new body will work to build and strengthen communities with joined up economic and community support. Potential activities around this could include: supporting community organisations to meet their needs and/or grow their capacity; supporting community based business and the social enterprise sector; regeneration and placed paced activities<sup>8</sup>. Detail of the activities to be carried out will however, be an operational decision for the new body.

### Individuals

The new body will aim to harness the potential of people and resources and have a leading role in creating conditions for more skilled job opportunities with good conditions of employment, and promoting fair work. It will seek to ensure people in the south of Scotland have the skills to make the most of future opportunities or increase economic opportunities, harnessing potential to generate wealth for all. Individuals will also benefit from stronger communities.

Working with skills organisation and skills providers, the new body could support activities which support the development of skills in the South; align skills needs with skills provision; work to ensure that the existing workforce have the opportunity to develop their skills and to access on-going training to enhance their skills; and ensure a workforce that can make the most of future economic opportunities. Detail of the activities to be carried out will however, be an operational decision for the new body.

It will also provide an opportunity to address exclusion, responding to the barriers preventing people participating in the economy, and enabling people across the area to enjoy the benefits of inclusive growth which aims to tackle inequality at all levels of society whilst driving competitiveness.

### Other public bodies

A range of public sector organisations already work activity in the south of Scotland to deliver services to business, learners and communities. These organisations include Scottish Enterprise, Skills Development Scotland, Scottish Funding Council, VisitScotland, Scottish Borders Council, Dumfries and Galloway Council, Creative Scotland, Historic Environment Scotland, Forestry Commission Scotland, and further and higher education providers.

The new body will work to complement existing activity and work closely with these existing organisations to deliver the best outcome for the area and maximise impact. There will also be value in learning from the approaches and successes of other agencies as it develops its plans for its future activities.

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<sup>8</sup> Consultation on a new Enterprise Agency for the South of Scotland



## **Scottish Firms Impact Test**

In 2017, there were 11,835 businesses operating in the south of Scotland: 95% were small (0-49 employees), 2% were medium (50-249 employees) and 3% were large (250+ employees)<sup>9</sup>.

Businesses will benefit from the new body's work to transform the economy and ensure it reaches its potential. It will help business across the south of Scotland, supporting business sustainability and growth, and a diverse and resilient economy.

The consultation section above describes the range of consultation and engagement with business. The engagement events and the national economic forum workshop provided an opportunity to hear directly from business their views on the proposals for the new body, including key issues, questions, needs, priorities etc. In addition, businesses, local business, and national business and trade union organisations, provided written responses to the public consultation. The Scottish Government also engaged directly with business organisations such as FSB, SCDI and Chambers of Commerce.

Responses from business generally indicated support for the Scottish Government's ambitions for the area, the creation of a new body and activities which it might undertake. This included providing support for business sustainability and growth, a more joined up approach and encouraging networking. The new body would provide an opportunity to support local business, including micro and small businesses which are particularly important to the area.

In addition to general consultation, workshops and meetings with business organisations, 12 face to face meetings were held with a representative sample of individual businesses within the area (see the consultation section for a breakdown). These provided the opportunity to discuss the creation of a new enterprise body, the impact this might have on business in the area and other related issues.

These discussions confirmed that businesses are supportive of the creation of a new body to deliver economic and business growth in the south of Scotland, recognising the benefits this could bring to the area and the business and communities within it. They welcomed a body which could bring a fresh, new approach, recognising and responding to the needs of the area. However, the delivery and future operation of the new body would determine success. Strong, clear leadership and ongoing engagement with business and the community were considered to be important factors.

Views expressed have, and will continue to be, taken into account in the development and implementation of the new body.

## **Competition Assessment**

- Will the measure directly or indirectly limit the number or range of suppliers?
- Will the measure limit the ability of suppliers to compete?
- Will the measure limit suppliers' incentives to compete vigorously?
- Will the measure limit the choices and information available to consumers?

<sup>9</sup> Source: Scottish Government: Business in Scotland

All these questions can be answered in a similar way. The Bill will establish a new public body in the south of Scotland, to take forward activities to drive economic growth, support resilient communities and harness the potential of people and resources. The new enterprise and skills body will have a clear focus on place and the needs of the area.

As such, the Bill will not have a limiting impact on competition. The aims of the new body will be to deliver a positive impact, helping the south of Scotland to thrive by supporting business and communities and increase competitiveness.

The new body will work to complement and harness existing activity to deliver the best outcome for the area. It will work closely with other national and local organisations in the area and forge productive relationships with and between them to align activities and maximise impact in the area.

The organisation will bring a fresh approach, tailored to the area's challenge and opportunities. It will look to deliver transformational change, driving inclusive growth, increasing competitiveness and tackling inequality.

### **Test run of business forms**

No new forms for business will be introduced by the legislation. As appropriate, the new body will consider any new forms for business to ensure that they are easy to use and accessible to all.

### **Legal Aid Impact Test**

It is not envisaged that there will be any demands placed on the legal system by this proposal. Accordingly, it is not considered that there will be any effect on individuals' right of access to justice through availability of legal aid or on possibly expenditure from the legal aid fund.

The Access to Justice Team have confirmed that they are content with this analysis and that there would be no additional impact on the legal system.

### **Enforcement, sanctions and monitoring**

The body will have a clear framework of governance and accountability set by Scottish Ministers providing appropriate oversight, transparency and public accountability. Members will be appointed by Scottish Ministers after fair and open competition regulated by the Commissioner for Ethical Standards in Public Life in Scotland. The new body will be required to prepare an action plan setting out how it will achieve its aims, prepare accounting records, and produce annual reports and accounts.

### **Implementation, delivery plan and Post implementation review**

The proposals will be implemented through primary legislation introduced to the Scottish Parliament during 2018, and it anticipated that the new body will be established on 1 April 2020. The Scottish Government will continue to engage with stakeholders throughout the forthcoming stages, and the work of the interim South of Scotland Economic Partnership will also helping prepare the way for the new body.

We will monitor implementation to ensure that the intended outcomes and benefits are realised. The Enterprise and Skills Strategic Board<sup>10</sup>, which was created in response to Enterprise and Skills Review, was set up to align and coordinate the activities of Scotland's enterprise and skills agencies. It has a role to hold agencies to account for performance against agreed measures, and ensuring that the wider enterprise and skills system delivers Scotland's Economic Strategy and supporting strategies in all parts of Scotland. The chair of South of Scotland Economic Partnership, the interim partnership established to ensure the area benefited from a new approach as early as possible and to help prepare for the new body, is a member of the Strategic Board.

### **Summary and recommendation**

Establishing a new public body under primary legislation to meet the enterprise and skills needs of the south of Scotland is the preferred option which will achieve the Scottish Government's aim and ambitions for the south of Scotland. While each option has its own strengths and weaknesses the recommended option is clearly supported by stakeholders and is considered to be the one which will deliver the best outcome to meet the needs of the area, and take a fresh approach to deliver transformational change.

### **Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

#### **Signed:**



**Date: 22 October 2018**

**Minister's name: FERGUS EWING**

**Minister's title: Cabinet Secretary for the Rural Economy**

**Scottish Government Contact point:**

Sandra Reid, Enterprise and Cities: South of Scotland

<sup>10</sup> <https://beta.gov.scot/groups/enterprise-and-skills-strategic-board/>



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