



## **The Distributive Trade (Retail Trade) Issues Paper**

MPC is releasing this issues paper to assist individuals and organisations to prepare and participate in the review. It contains and outlines:

- the scope of the review
- matters about which the MPC is seeking comment and information
- information about how you can get involved in the review.

Participants may add any comment which they consider relevant to the review.

### **Contacts:**

**Due date for submissions: 15 December 2016**

### **Submissions can be made by email or fax to:**

Email : [alamin@mpc.gov.my](mailto:alamin@mpc.gov.my) and [\\_farahaton@mpc.gov.my](mailto:_farahaton@mpc.gov.my)

Fax: 03-7960 0206

### **Contacts:**

Mr. Mohd. Alamin Rehan / Ms. Nurul Farahaton Najihan Jusoh - Tel: 03-7960 0173

## 1 Introduction

The Eleventh Malaysia Plan (2016-2020) emphasises on creating seamless connectivity for people and goods. The Distributive Trade sector enables goods from manufacturers or importers to be distributed via wholesale activities to retailers that directly serves the customers. Distributive trade is an activity consisting of (a) provision of a service to various types of customers (retailers and other commercial users or the general public) by storing and displaying a selection of goods and making them available for buying; and (b) provision of other services incidental to the sale of those goods or subordinated to the selling such as delivery, after-sale repair and installation services. The trades include wholesalers, retailers, franchise practitioners, direct sellers and suppliers, who channel their goods in the domestic market, and commission agents or other representatives including those of international trading companies.

The sector has also been identified as one of the potential growth areas for the development of SMEs. This is also part of the focus of the Economic Transformation Programme (ETP) identified as the Wholesale and Retail segments. According to the ETP (2010), Malaysia's wholesale and retail sector is a major contributor to gross national income (GNI). It contributed about RM57 billion to GNI in 2009. The sector also contributed almost 500,000 jobs, according to the Department of Statistics. To achieve our 2020 GNI target, retail will be a key driver of domestic consumption, which in turn will lead to economic growth.

According to the Census on Distributive Trade 2014, there were a total of 370,725 establishments in 2013 undertaking business activities in Malaysia with 260,664 or 70.3% of business establishments were in the retail trade sub-sector, 57,050 establishments (15.4%) were engaged in wholesale trade activity and 53,011 (14.3%) establishments in motor vehicles activity. The majority of the enterprises in this sector are SMEs totalling 362,099 establishments or 97.7% in the distributive trade sector. Out of these SMEs 81.4% are micro enterprises. 16.9% are small enterprises and 1.7% medium enterprises. The majority of SMEs is in retail trade sub-sector with 254,240 establishments (70.2%), with 55,214 establishments in wholesale trade (15.3%) and 52,645 establishments (14.5%) in motor vehicles sub-sector.

These 370,725 establishments in 2013 generated sales value of goods and services of RM841.6 billion. From the total sales value of goods and services, wholesale trade sub-sector contributed 52.5% or RM442.2 billion, followed by the retail trade sub-sector, 33.2% or RM279.1 billion and motor vehicles sub-sector, 14.3% or RM120.4 billion. The contribution from SMEs was RM485.0 billion with the largest contribution from the small category at RM235.6 billion or 48.6%

There were some 1.7 million employees engaged in the distributive trade sector then, with the majority of the workers employed in the retail trade sub-sector representing 53.6%. This is followed by the wholesale trade sub-sector at 30.2% and motor vehicles sub-sector at 16.2%. In terms of income contribution, total salaries and wages disbursed in 2013 was RM39.0 billion with the retail trade sub-sector recorded the highest with RM19.8 billion (50.9%), followed by wholesale trade sub-sector, RM13.3 billion (34.2%) and motor vehicles sub-sector, RM5.8 billion (14.9%). Distributive trade sector posted an average monthly salary of RM2,410. Wholesale trade sub-sector recorded a higher average monthly salary at RM2,727 followed by retail trade sub-sector at RM2,289 and motor vehicles sub-sector at RM2,216. SMEs in the sector engaged close to 1.4 million employees with 70.7% employed as full-time employees.

## **2 Who is this Issues Paper aimed at?**

This Issues Paper is aimed at stakeholders who have information and experience in regulatory affairs relating to the distributive trade services. This review will cover any issue relating to the existing regulations, the regulatory regimes and compliance with the requirements.

We are interested in everyone's views, so please provide as much information as you can on the questions asked in this review. We know that people and businesses will have different experiences in regulatory compliance at this stage, so do not feel you have to answer the questions that are not relevant to you, for example where you do not have personal experience. We would welcome any other views not raised in the questions.

We have sent this Issues Paper document to many people and organisations but may not have reached everyone who may be interested in this review. Please share this document with, or tell us about anyone you think will want to be involved in this review.

## **3 Purpose of the Review**

The review will analyse the regulatory environment of the distributive trade sector and to formulate options that will reduce identified unnecessary regulatory burdens. The options will then be submitted to the Government through various committees such as the Special Committee on Services Sector, PEMUDAH and Malaysia Services Development Council (MSDC) for their response and action. The review is advisory only and it is up to the Government to decide which of the recommended options it will adopt and implement.

## **4 Scope for the Review**

Regulations that mainly affect the distributive trade sector especially on the retail trade. Industries included in the review based on Division G of the Malaysia Standard Industrial Classification (MSIC) 2008.

- Retail sale in non-specialized stores (471); Hypermarket, departmental stores, super market, mini market etc.
- Retail sale of other goods in specialized stores (477); Clothing and accessories, footwear, leather goods, etc.

## **5 Duration of the Review**

This review commences with a period of collecting information from interested parties and other sources which began on September 2016 and will continue until the end of December 2016. After this information has been collected and assessed, a draft report will be published and released for further consultations with key business stakeholders and relevant regulators.

## 6 How to Respond to this Review

We shall be organising focus group meetings with wholesalers and retailers beginning August 2016 until mid-November 2016 to discuss and gather issues relating to unnecessary regulatory burdens experience by the distributive trade businesses. Invitations to these meetings are extended to your company and the associations on the meetings.

Should you wish to have a one-to-one meeting on this review, please contact us to fix a date and time. We would be pleased to meet you at your convenience.

Should you wish to write your response to us, please email us at [alamin@mpc.gov.my](mailto:alamin@mpc.gov.my) or [farahaton@mpc.gov.my](mailto:farahaton@mpc.gov.my)

Should you wish to write to us, please ensure that your response reaches no later than 15 December 2016. We will acknowledge your response.

## 7 Queries about this Issues Paper

Please direct any queries about this Issues Paper to:

Phone : 03 – 7960 0173 Mohammed Alamin Rehan or Nurul Farahaton Najihan Jusoh

Fax : 03 – 7960 0211

Email : [alamin@mpc.gov.my](mailto:alamin@mpc.gov.my) or [farahaton@mpc.gov.my](mailto:farahaton@mpc.gov.my)

Appreciate if you could indicate your interest to this notification using the **EXPRESSION OF INTEREST** form attached (Annex 2).

## 8 Confidentiality

The information from you may need to be passed to our colleagues within MPC, published in a summary of responses received and referred to in independent report. However, individual names will be kept confidential and will not be published in the report. We will acknowledge your organisation with your consent.

## 9 What happens next?

This RURB project timetable is as follows:

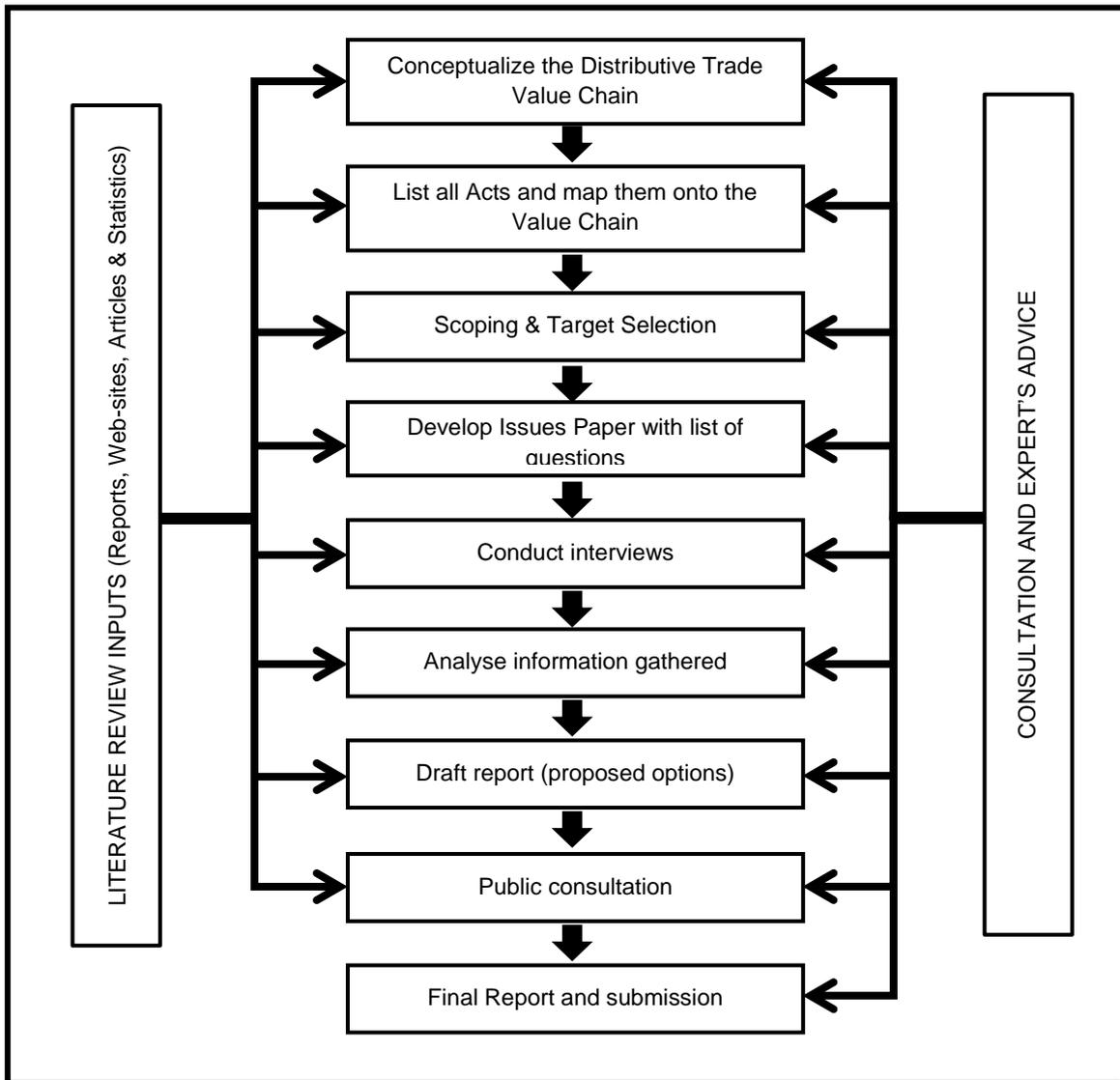
- Preparation of Issues Paper and data collection from August 2016 to December 2016. This will cover:
  - A literature review
    - Formulate a set of questions
    - Focus group discussions with stakeholders
    - Interviews with stakeholders
    - Discussions and verifications with regulators/authorities
- Analysis and interpretation of information/data beginning January 2017 and completing in February 2017. This includes the data analysis, options development, consultations with distributive trade businesses/experts, and testing of options with regulators/authorities
- Preparation for publication of final draft report for public consultations to take place in March 2017. This will cover:

- Public consultation to obtain feedback on options and other views
- Presentations of recommendations to various committees for decisions
- Preparation and submission of final report in May 2017.

## 10 Summary of the Review Process

The RURB process is summarised in the schematic diagram below. You can refer to other RURB reports on the MPC website to see how this review process has been used in other reviews (Figure 1).

Figure 1: Summary of the Study Process



## 11 What is Regulatory Burden on Business?

Regulatory burdens arise from the costs imposed by regulation and its enforcement that would otherwise not arise for businesses. Regulatory requirements create a change in business behaviour and practices and can adversely impact on businesses in various ways. These costs or impacts include:

- a. Administrative and operational requirements such as reporting, record keeping, getting legal advice and training
- b. Requirements on the way goods and/or services are managed and handled, such as prescriptions on transportation and handling methods, occupational registration requirements, requiring professionals to use particular techniques
- c. Requirements on the characteristics of what is transported or handled, such as dangerous and scheduled goods
- d. Lost opportunities due to prohibitions, such as restriction on trading/business hours.

## 12 Unnecessary Regulatory Burdens

Regulations by necessity impose prices on those affected, as well as businesses. Wherever the objectives of regulation are sound, and are effectively designed and enforced, the advantages of regulation would be expected to outweigh the prices for the community. Good regulation additionally achieves its explicit policy objectives at the least cost to the community.

The common types of regulatory burdens experienced by business are as follows:

- a. Excessive coverage by a regulation – that is, the regulation affects more activity that was intended or required to achieve its objective
- b. Subject-specific regulation that covers much the same issues as other generic regulation
- c. Prescriptive regulation that unduly limits flexibility such as preventing businesses from:
  - i. Using the latest technology
  - ii. Making changes to better meet customer demand
  - iii. Meeting the underlying objectives of regulation in different ways
- d. Overly complex regulation
- e. Unwieldy licence application and approval processes, excessive time delays in obtaining responses or duplicative information requests
- f. An overlap or conflict in the activities of different regulators
- g. Inconsistent application or interpretation of regulation by regulators.

It is important to note that the relative burden placed on small businesses may be greater than that imposed on larger businesses as they may have to devote proportionately more effort to achieve equivalent compliance. They may also be disadvantaged where regulations are anti-competitive.

For more information, please refer to: *A Guide to Reducing Unnecessary Regulatory Burdens: A Core Concept*. This booklet can be downloaded from [www.mpc.gov.my](http://www.mpc.gov.my)

## **13 Regulation and Policy**

The study will address both written regulation and its implementation by regulators. Written regulations cover primary and secondary legislative instruments (gazetted Acts and Regulations) and quasi regulation such as guidelines, standards, circulars, written instructions, procedures and forms, etc.

The implementation of written regulation is frequently neither effective nor efficient. It will be wrong to assume that once a regulation is approved everyone complies, or that regulators administer and enforce the written regulation. How regulators implement regulation crucially influences whether it achieves the Government's intended policy objectives and the compliance costs imposed on business.

However, when regulators follow good regulatory practices (GRP), they are likely to implement regulation effectively and efficiently. These practices include:

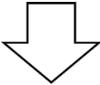
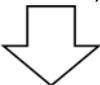
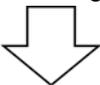
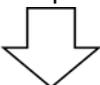
- i. using risk analysis to identify areas of intrinsically potentially high adverse impacts and/or possible low compliance
- ii. maximising the potential of voluntary compliance
- iii. using a range of enforcement instruments flexibly in order to respond to different types of non-compliance as in responsive regulation
- iv. applying regulations consistently across businesses and industry sectors
- v. displaying sufficient transparency to enable business to know the requirements of the law
- vi. maintaining an on-going dialogue between government and the business community
- vii. having sufficient accountability to enable business to question and appeal decisions and to address possible cases of corruption
- viii. monitoring compliance in order to assess the effectiveness of enforcement activities
- ix. having adequate resources and skills to be able to fulfil its responsibilities

## **14 Regulatory Regime in Distributive Trade**

To illustrate the myriad of Federal and State government regulatory requirements on business a review is made on the value chains for the distributive trades (Table 1). The value chain indicates the key regulatory requirements that businesses have to face at each stage of their enterprise life cycle. The stages are: a) the establishment of the business; b) distribution activities; c) retailing operation; d) expansion or ownership change; and e) cessation of operation.

Generic regulation, such as taxation, occupational health, safety and environment (OHSE), incorporations and industrial relations legislation are included in the value chain because they are a potential source of burden to business. These do not have a particular or discriminatory impact on the distributive trade sectors. However, there are other regulatory requirements that incorporated key national policy areas that have discriminatory impacts such as policy on foreign participation in the sector. These policy requirements are built into licensing and establishment registration with the intention of protecting local SMEs and the development of SMLs which are the mainstay of the domestic economy.

Table 1: Distributive trades value chain and the regulatory map

<i>Key government intervention</i>	<i>Key stages of life cycle</i>	<i>Federal/State Regulatory Regimes</i>
<ul style="list-style-type: none"> <li>• Incorporation (types)</li> <li>• Foreign participation</li> <li>• Financing (access to finance)</li> <li>• Construction regulation</li> <li>• Trade classes/types</li> </ul>	Establishment and construction/ acquisition of premises 	<ul style="list-style-type: none"> <li>• Business incorporation</li> <li>• Land code/use and planning</li> <li>• Building code/By-laws</li> <li>• Commercial tenancy/premise licensing</li> <li>• Trade licensing</li> </ul>
<ul style="list-style-type: none"> <li>• National land transport regulation</li> <li>• Trade classes &amp; practices</li> <li>• Product regulation (control items, standards, labelling, etc.)</li> <li>• Suppliers (SME/SMI)</li> </ul>	Distribution (Wholesale & larger multi-branch retailers) 	<ul style="list-style-type: none"> <li>• Transportation</li> <li>• Food safety</li> <li>• OHSE compliance</li> <li>• Land use and planning</li> <li>• Local government rates &amp; charges</li> <li>• Hazardous goods handling/transport</li> <li>• Product safety</li> </ul>
<ul style="list-style-type: none"> <li>• Trade practices</li> <li>• Taxation (GST, Income tax)</li> <li>• Industrial relations</li> <li>• Employment</li> <li>• Suppliers (SME/SMI)</li> </ul>	Operation (Retailing) 	<ul style="list-style-type: none"> <li>• Consumer protection</li> <li>• Trading hours</li> <li>• OHSE requirements</li> <li>• Employment</li> <li>• Foreign workers</li> <li>• Islamic requirements</li> <li>• Food safety &amp; hygiene</li> </ul>
<ul style="list-style-type: none"> <li>• Construction regulation</li> <li>• Incorporation regulation</li> </ul>	Expansion or Ownership change 	<ul style="list-style-type: none"> <li>• Land code/use and planning</li> <li>• Building code/By-laws</li> <li>• Commercial tenancy/premise licensing</li> <li>• Trade licensing</li> </ul>
<ul style="list-style-type: none"> <li>• Corporation regulation</li> <li>• redundancy provisions</li> </ul>	Cessation of operations	<ul style="list-style-type: none"> <li>• Liquidation/insolvency</li> <li>• Land code/use and planning</li> </ul>

## 15 Review Questions

We would like to gather views, experience and feedback on how you deal with regulations. We would welcome any suggestions to improve the current regulations and regulatory practices. Below is a list of questions which we would like you to think through and provide us with your views and feedback.

- i. Which regulations concern you the most? Why?
- ii. Which regulations are the hardest to comply with? In what way?
- iii. Which regulations do you think are too onerous given what they are trying to achieve?
  - What do you think of the current costs involved in getting your application to maintain your business?
  - How about the application's processing time? Which exact processing stage is the most burdensome to maintaining the business?
- iv. Do you think any regulations are not justified at all?
- v. Are some regulatory requirements inconsistent?

- vi. Do you consider inspectors and other regulatory administrators do a good or a poor job? In what way?
- vii. Do you find inspectors and administrators are consistent in their decisions?
- viii. Do you find they are helpful or unhelpful in advising you how to comply? Are there any publicly available guidelines?
- ix. How long do regulators take to respond to applications, queries, etc.?
- x. Do you have any suggestions for reducing the burden of compliance of regulations?
- xi. Are there any other issues you want to suggest we should cover in our review?

## **16 Issues of Current Interest**

In general, the country has made limited effort in review existing regulations over the years. There exist regulations which are be deemed obsolete as they no more serve their original purpose. Businesses are facing difficulties in business planning and decision-making due to the poor accessibility to regulatory information governing each stage of the business life-cycle. Specific questions relating to these issues need to be answered.

### **1. Fragmented regulations**

The Distributive Trade sector is subjected to a myriad of regulations ranging from business establishment, OSHE, product safety, taxation, consumer protection and other product specific regulations. These various regulations are enforced by different regulators resulting in duplications and overlapping controls, different and conflicting regulatory interpretations, variety of administrative rules and demands for unnecessary documentation. Compounding these, there are also protective policy requirements on the business and trade practices.

Q1: What are the overlapping regulations on the trade?

Q2: Do you think any of the regulations are not justified or relevant?

Q3: Which regulations are most cumbersome to comply?

### **2. Lack of clear and accessible regulatory information**

The published guidelines, rules, specifications, performance criteria and procedures pertaining to the construction, development, establishment, administration, operation and maintenance are confusing and often difficult to access by businesses. The published information on regulators web-sites are often inadequate and do not meet the needs of the trade.

Q1: What kind of difficulties does you faced in your applications for licences, permits or approvals?

Q2: What are the issues on information accessibility and transparency of regulators?

### **3. Dealing with construction permits**

One of the fundamental hindrances confronted by businesses in undertaking and implementing development projects is the delay in acquiring planning and development approval from the relevant authorities.

Some issues related to dealing with construction permits are:

- a. Excessive time delay in obtaining the construction permits.
- b. High cost to comply with TNB substation installation
- c. Difficulty with fire safety approvals
- d. Different local authorities' requirements on parking, location, licensing, etc.

Q1. What is/are the major issue/s you have in dealing with construction permits?

Q2. What are the difficulties in dealing with the different regulators?

Q3. How long do regulators take to respond to applications, queries, etc.?

#### **4. Cumbersome in getting franchisor/franchisee licence/permit**

Although Malaysia has embarked on liberalisation of the services sector, there are still a number of policy restrictions in the retail trade sector. The purpose being to protect the local small retailers in the country. Foreign franchisor in some types of retail trade usually face difficulties in interpreting and meeting these policy and regulatory requirements.

Q1: What kind of difficulties does you faced in your applications for licences, permits or approvals?

Q2: What are the issues on franchisor/franchisee licence/permit?

Q3: What is the compliance costs or regulatory costs to businesses in conforming with government requirements

We hope that you will be able to give us a clearer picture and better understanding on issues and other concerns you have in the trade. It will be useful if you can **cite real-case examples, provide evidences** and explanation on the issues raised.

## Terms of Reference

### Reducing Unnecessary Regulatory Burdens on Business: Warehousing Industry

#### 1. What the MPC has been asked to do

In the **Eleventh Malaysia Plan, 2016-2020**, the focus is to accelerate economic growth and promote an economy that will be driven by high-value and knowledge-intensive activities, sectoral governance reforms, and enhancing internationalisation of products and services.

The **Services Sector Blueprint** mandated Malaysia Productivity Corporation (MPC) to undertake initiative on sectoral governance reform to remove structural barriers and outdated regulations through:

- i.) Accelerating and increasing the efficiency of sectoral governance reform;
- ii.) Ensuring that the best regulatory development practices are in place for new regulations by expanding and accelerating the adoption of the National Policy for the Development and Implementation of Regulations (NPDIR).

These will draw on the expertise and perspectives of the public and private sectors to help identify key issues and develop appropriate solutions.

#### 2. Conduct of the review

The study will emulate the approach used by the Australian Government Productivity Commission (AGPC) on reducing unnecessary regulatory burdens. The team will select a sample of businesses from the distributive trades operating in Malaysia. The team will interview the senior management personnel to identify the regulatory issues of concern. Based on the principles of good regulatory practices, the team will formulate feasible options for further deliberation. These issues and options will be subject to further consultation with relevant stakeholders in order to develop concrete recommendations that will reduce unnecessary regulatory burdens.

Interested parties are welcomed to participate in this review. You can contact the persons below on matters relating to this review.

Ms. Nurul Farahaton Najihan Jusoh

(Administrative matters)

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Mr. Mohammed Alamin Rehan

(Other matters)

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**EXPRESSION OF INTEREST**  
**MALAYSIA PRODUCTIVITY CORPORATION (MPC)**  
**REDUCING UNNECESSARY REGULATORY BURDENS IN**  
**DISTRIBUTIVE TRADE SECTOR**

**Please complete and submit this form with your submission (if any) before 15 November 2016:**

**By email** : farahaton@mpc.gov.my

**By Fax** : (03) 7960 0206

**Contact (name)**

: \_\_\_\_\_

**Position**

: \_\_\_\_\_

**Organisation**

: \_\_\_\_\_

**Address**

: \_\_\_\_\_

\_\_\_\_\_

**City**

: \_\_\_\_\_

**Postcode**

: \_\_\_\_\_

**Telephone (off)**

: \_\_\_\_\_

**Mobile**

: \_\_\_\_\_

**Email address**

: \_\_\_\_\_

**Please indicate your interest in this review:**

**( v )**

i.) Would like to be interviewed by the MPC

( )

ii.) Would like to make a submission

( )

iii.) Be informed of development of study including receiving the draft report

( )

**Please describe the nature of your business activity area of specialisation:**


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Any enquiries regarding this publication should be sent to:  
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Thank you

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