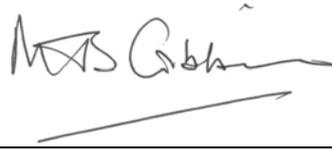


 Regulatory Policy Committee	OPINION	
Impact Assessment (IA)	Criminal Liability of Partnerships (Scotland) Bill	
Lead Department/Agency	Scotland Office	
Stage	Consultation	
Origin	Domestic	
Date submitted to RPC	08/02/2012	
RPC Opinion date and reference	15/03/2012	RPC12-SCOT-1266
Overall Assessment	RED	
<p>The IA is not fit for purpose. The IA neither provides information on how many offences have taken place in recent years nor does it explain the relationship between why partnerships dissolve and the problem itself. This means that it is difficult to assess the scale of the likely costs and benefits of the proposal, and what the net impact on business will be. It is also not apparent why this proposal is considered out of scope of One-in, One-out (OIOO).</p>		
<p>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</p>		
<p><i>Costs and benefits of the proposal.</i> The IA says the proposal will provide a targeted interim solution to an existing loophole in the legislation to allow for the prosecution of a partnership and/or an individual partner. The IA says that the implication is that “<i>partnerships can escape prosecution for potentially serious offences alleged to have been committed prior to dissolution</i>”. While the IA says that it is difficult to estimate the number of cases that may be prosecuted, the IA neither provides information on how many offences by partnerships have taken place in recent years (or on the frequency of dissolutions), nor does it explain the relationship between why partnerships dissolve and the problem which is being addressed. For example, it is not apparent to what extent it is likely that the dissolution of partnerships occurs in order to avoid prosecution, and therefore whether this is the most effective approach to tackle the problem. The IA must explain this so that it is possible to assess the scale of the likely costs and benefits of the proposal, and what the net impact on business will be.</p>		
<p><i>Options.</i> The IA says that Option 3 considers a wider and long term solution to the issue through the implementation of the recommendations of the Joint Report on Partnership, and is the preferred option of Scottish Law Commission (SLC). However this is not considered further for consultation. While the preferred option may be considered “<i>a more targeted solution</i>”, the IA would benefit from explaining further why Option 3 is not considered for consultation as this would help explain why the preferred option is considered a more effective regulatory response. The IA would also benefit from discussing the practicality of litigation on dissolved partnerships.</p>		
<p>Have the necessary burden reductions required by One-in, One-out been identified and are they robust?</p>		

The IA says that the proposal is not in scope for One-in, One-out (OIOO). However, at the same time the IA acknowledges that there are likely to be direct costs on business, although these are expected to be minimal (page 5). As it appears that this proposal is in scope of OIOO, the IA therefore needs to provide a clear assessment of the direct impact on business and will have to provide a robust estimate of the Equivalent Annual Net Cost to Business (EANCB) at final stage.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal stroke underneath.

Michael Gibbons, Chairman