

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Consequential amendments to the Merchant Shipping Act 1995 to complete UK ratification of the 2002 Athens Protocol relating to the Carriage of Passengers and their Luggage by Sea	
Lead Department/Agency	Department for Transport	
Stage	Final	
IA number	DFT00242	
Origin	European	
Expected date of implementation (and SNR number)	23 April 2014 (SNR7.)	
Date submitted to RPC	10/09/2013	
RPC Opinion date and reference	01/11/2013	RPC13-DFT-1897
Overall Assessment	GREEN	
RPC comments <p>The IA is fit for purpose. The assessment that the proposal is outside the scope of One-in, Two-out (OITO) appears to be reasonable. Although the Department was unable to monetise any of the limited potential impacts of the proposal due to significant uncertainties and limitations in available evidence, a sufficient qualitative assessment is provided. This analysis appears to be reasonable and proportionate.</p>		
Background (extracts from IA) What is the problem under consideration? Why is government intervention necessary? <p>There is a need to ensure that the framework for providing compensation to passengers carried by sea in the event of death or personal injury is effective and provides prompt, adequate compensation. The 2002 Protocol to the Athens Convention will strengthen the international regime, and, although the key provisions of the Protocol have been introduced into EU law (EU Regulation 392/2009 from 31 December 2012, which the UK has already implemented), the requirements of two Council Decisions (2012/22/EU and 2012/23/EU) necessitate further government intervention to ratify the 2002 Protocol. This will be achieved by amending UK legislation to incorporate the international elements of the Protocol itself, and to revoke some related domestic legislation identified as being redundant as part of the Red Tape Challenge.</p> What are the policy objectives and the intended effects? <p>The first policy objective is for the UK to ratify the 2002 Protocol. This will not only ensure that UK-flagged passenger vessels can be issued with the correct international certification, but it will also enable the 2002 Protocol to be extended to the Overseas Territories and Crown Dependencies should they so wish – which, if they chose to do so, would enhance the protection that is available to passengers travelling on board vessels which are flagged to the Overseas Territories and Crown Dependencies when travelling on international (non-EU) journeys.</p>		

The second policy objective is to respect a Red Tape Challenge commitment by revoking some redundant legislation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The 'Do Nothing' scenario is the baseline against which the policy options are assessed. Only one other policy option has been assessed in this Impact Assessment, which is to make the necessary changes to UK legislation to enable the UK to ratify the 2002 Protocol and revoke the completely redundant legislation. No non-legislative option is open, given that the objectives are to ratify the 2002 Protocol and to respect a Red Tape Challenge commitment by revoking some redundant legislation.

Comments on the robustness of the OITO assessment

The IA says *“Although the 2002 Protocol is of international origin, the requirements of two EU Council Decisions (2012/22/EU and 2012/23/EU) necessitate Government intervention to ratify the 2002 Protocol. Option 1, which contains the bare minimum necessary for the UK to ratify the 2002 Protocol, is therefore out of scope of the One-In-Two-Out (OITO) rule.”* Furthermore, the IA says *“There is also one domestic element to this measure. This is to revoke some related domestic legislation identified as being redundant as part of the Red Tape Challenge. As this is redundant legislation, there are no impacts on business from making this change. Therefore, the domestic element of this measure is also classified as out of scope of OITO”* (Paragraph 11). These assessments appear reasonable and are consistent with the Better Regulation Framework Manual (paragraphs 1.9.8.ii and 1.9.6)

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

As this proposal is not of domestic origin, an SaMBA is not required.

Quality of the analysis and evidence presented in the IA

The provisions of the 2002 Protocol to the Athens Convention modernise and significantly strengthen the International framework for providing compensation in the event of death or personal injury for fare paying passengers at sea. These have already been given effect at EU level which the UK now needs to ratify. Without ratification, there is a risk that UK registered vessels could be unnecessarily held up or detained in ports of States who have ratified the 2002 Protocol, causing inconvenience to passengers.

However, the IA says *“The EU regulations does not apply the key provisions of the 2002 protocol to voyages between the UK mainland and Crown dependencies as these are neither domestic nor international voyages in nature and therefore out of scope of the EU Regulations.”*(Section 7.1) Without ratifying the 2002 Protocol, neither UK Overseas Territories nor Crown Dependencies will be able to have the 2002 Protocol extended to them, even if they wish it. If one or more of these territories or dependencies ratify the Protocol there would be a number of potential

costs to ship owners such as taking out additional insurance. However, as the EU regulation already applies the key provisions of the Protocol to international voyages there are only limited circumstances when they could incur extra costs such as voyages of ships registered with the Overseas Territories/Crown Dependencies between countries that have not ratified the protocol. However, there would be benefits to passengers from higher, prompt and effective compensation.

Costs and Benefits. The IA states that given the uncertainties over the Overseas Territories and Crown Dependencies that would choose to ratify the 2002 Protocol and the limitation of evidence it has not been possible to monetise the costs and benefits. However the IA has provided full qualitative description of the impacts which appear to be reasonable (Page 14).

Derogations. The UK in implementing the EU regulations has already taken advantage of all the derogations permitted (Page 3).

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line extending to the right below the name.

Michael Gibbons, Chairman