

 Regulatory Policy Committee	Validation of the One-in, Two-out Status and the Net Direct Impact on Business
Validation Impact Assessment (IA)	Proposed changes to the law governing insolvency proceedings
Lead Department/Agency	Department for Business, Innovation & Skills
IA Number	Not provided
Origin	Domestic
Expected date of implementation	May/June 2015 SNR 9 April 2016 SNR11
Date of Regulatory Triage Confirmation	Not applicable – Red Tape Challenge
Date submitted to RPC	5 September 2014
Date of RPC Validation	23 October 2014
RPC reference	RPC14-BIS-2140(2)
Departmental Assessment	
One-in, Two-out status	OUT
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	-£12.24 million comprised of -£2.10 million for 2015 measures and -£10.14 million of 2016 measures
RPC assessment	VALIDATED
Summary RPC comments	
<p>The IA is fit for purpose. Based on the evidence provided, the RPC can validate the estimated net savings to business of these proposals.</p> <p>The IA adequately addresses the issues raised in the RPC’s opinion dated 8 August 2014. The Department now explains which measures will be implemented in 2015 and which will be implemented in 2016. It also explains more clearly which of the measures will be of direct benefit to business and has revised the EANCB figures accordingly.</p>	
Background (extracted from IA)	
What is the problem under consideration? Why is government intervention necessary?	
<p><i>Red Tape Challenge has identified a number of pieces of regulation that affect the efficient working of insolvency proceedings by imposing unnecessary regulatory burdens. These burdens are imposed by a combination of primary and secondary legislation and consequently can be removed only by government intervention.</i></p> <p><i>The Government propose to amend primary legislation to implement a package of thirteen regulatory reforms to insolvency proceedings together.</i></p>	

Some would also require additional secondary legislation. The IA assesses the impact of the package as a whole rather than individually.

In almost all insolvency procedures, an insolvency office-holder is appointed to deal with a debtor's estate (their financial affairs), including assessing whether or not there are any assets belonging to the debtor can be sold to raise funds. Funds raised from the sale of the debtor's assets are used to pay for the proceedings, including the office-holder's fees for acting in the case, and any remaining funds are distributed to creditors. The framework sets out the order of priority in which creditors receive payment.

Insolvency office-holders must be qualified to act as such. This means they will either be authorised insolvency practitioners (IPs - private sector professionals) or official receivers (ORs - civil servants employed by the Insolvency Service). Office-holders can be remunerated in a number of ways, depending on the particular procedure in question. In most cases dealt with by IPs, the costs of dealing with the proceedings are charged to the estate on a time costs basis so the IP's fees are determined by the amount of time spent dealing with the case. In most cases dealt with by ORs, a fixed case administration fee is charged to the estate.

What are the policy objectives and the intended effects?

The objective is to implement savings to the cost of administering insolvency proceedings. As all insolvency costs must be paid before any money can be returned to any class of creditors, this should result in increased returns to creditors.

RPC comments

The proposals simplify existing legislation to make insolvency proceedings more efficient. The savings arise from thirteen measures, which produce process improvements by doing away with certain functions, thus reducing the cost to business and also saving time for insolvency practitioners or official receivers. The measures include: the abolition of final meetings; removing meetings of creditors as the default position in insolvencies; allowing an office-holder (either insolvency practitioners or official receivers) to pay a dividend in respect of debt of less than £1,000 without the need for a creditor to submit a formal claim; and allowing the OR to be appointed trustee on the making of a bankruptcy order.

The IA adequately addresses the issues raised in the RPC's opinion of 8 August 2014. The previous opinion said that the Department should set out clearly in the IA which of the impacts are direct and which are indirect. The Department has provided a clearer exposition of which of the measures will be of direct benefit to business and revised the cost figures accordingly. In particular, it has:

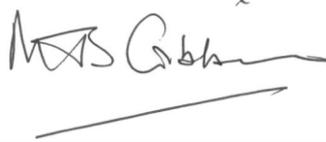
- provided additional information on the impact on Insolvency

Practitioners and Official Receivers,

- adjusted the benefits to creditors to take account of the fact that not all creditors are businesses; and
- adequately explained that creditors will directly benefit from a reduction in Insolvency Service fees.

The Department has now set out the implementation dates for individual measures, to ensure that they are recorded in the appropriate One-in, Two-out accounting periods, as requested.

Signed

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

Michael Gibbons, Chairman