

Title: Extending the scope of compulsory motor insurance IA No: DfT00343 RPC Reference No: RPC-3492(1) Lead department or agency: Department for Transport Other departments or agencies: Click here to enter text.	Impact Assessment (IA)			
	Date: 20/09/2016			
	Stage Consultation			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries: Pippa Brown				
Summary: Intervention and Options				RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value £m N/Q	Business Net Present Value £m N/Q	Net cost to business per year (EANDCB in 2014 prices) £m N/Q	One-In, Three-Out Not in scope	Business Impact Target Status Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

UK legislation provides victims of motor vehicle accidents with a route to claiming compensation where the driver is at fault, where the accident involves a vehicle which is designed for road use and where the accident occurs on a road or other public place. However, that route to compensation is not currently available to victims of accidents which occur on private land; or to victims of accidents which are caused by the negligent use of non-road-going vehicles. Government intervention is required to amend domestic legislation to ensure that victims are compensated in these instances, an obligation which was clarified by the European Court of Justice in 2014 in the “Vnuk judgment”.

What are the policy objectives and the intended effects?

The principal policy objective is to provide more victims of motor vehicle accidents where the user is at fault with a straightforward route for claiming compensation. This will be achieved by requiring the users of a wider range of vehicles to have insurance (in line with the broader interpretation of the Motor Insurance Directive (“The Directive”) in the Vnuk judgment); or by derogating some vehicles. Claims could therefore be made to either the insurer or the Motor Insurers Bureau (MIB) if the vehicles are not insured. An associated objective is to limit the costs that will inevitably arise from extending the scope of compulsory motor insurance.

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

Baseline (Option1) - Do nothing – obligations and MIB protections as currently contained in domestic legislation. Non-regulatory is not suitable as our legislation must comply with the Directive following the ECJ’s broadening of its application.

Option 2 – Modify domestic legislation to ensure compliance with the Directive following the Vnuk judgment, which will mean requiring insurance in respect of a wider range of vehicles (or derogating from this requirement), and extending the scope of cover beyond road or public place. This option runs the risk of having to re-amend domestic legislation should the Commission alter the Directive.

Option 3 –Modify domestic legislation in line with the Commission’s high-level proposal to amend the Directive. This will involve further engagement with the Commission as they refine their proposal and further engagement with stakeholders about the detail of any change to domestic legislation. This is the Government’s preferred option as it would mitigate the effects of the Vnuk judgment - most notably it would mean that use of vehicles on private land would not be in scope of the Directive.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: September/2023

Does implementation go beyond minimum EU requirements?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)		Traded: Insert	Non-traded: Insert	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date : _____ Enter a date

Summary: Analysis & Evidence

Policy Option 2

Description: Modify domestic legislation to ensure compliance with the Directive following the Vnuk judgment, which will mean requiring insurance in respect of a wider range of vehicles (or derogating from this requirement), and extending the scope of cover beyond road or public place.

FULL ECONOMIC ASSESSMENT

Price Base Year: Year	PV Base Year: Year	Time Period Years: Insert	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: Optional

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/Q	N/Q	N/Q

Description and scale of key monetised costs by 'main affected groups'

Consultation will seek data which will be used to quantitatively assess the costs and benefits in the final stage IA. There will also be costs associated with enforcement and to the criminal justice system (CJS) if there is a rise in prosecutions for driving a motor vehicle without insurance and/or keeping a motor vehicle without insurance. It is estimated, by Ministry of Justice (see Annex C), that the costs to CJS agencies will be approximately £400 per additional defendant proceeded against for driving a motor vehicle without insurance and approximately £300 for keeping a motor vehicle without insurance. The Government will seek to gather evidence during consultation to provide a fuller picture of these costs in the final stage IA.

Other key non-monetised costs by 'main affected groups'

The IA describes, in qualitative terms, costs to insurers, to the Motor Insurers Bureau, to other businesses, to individuals and to society (enforcement and criminal justice costs),

We expect the main groups who would face increased costs are insurance companies who would have to pay a larger levy to the MIB and would face significant transition costs in terms of setting up new insurance policies; and the Motor Insurance Bureau who would see an increase in the number of claims and who would incur familiarisation costs. These costs are likely to be passed onto consumers in terms of increased premiums. There are also likely to be administrative costs to insurance companies and the Motor Insurers Bureau to process a greater number of claims.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/Q	N/Q	N/Q

Description and scale of key monetised benefits by 'main affected groups'

Consultation will seek data which will be used to quantitatively assess the costs and benefits in the final stage IA.

Other key non-monetised benefits by 'main affected groups'

The main benefit would be to people injured or who experience property damage who would have a route to compensation in a wider range of circumstances, not previously covered by existing legislation. The Government will seek to gather evidence during consultation to provide a fuller picture of these in the final stage impact assessment. There would also be benefits arising from a potential reduction in the number of accidents through improved driver/user behaviour if compulsory insurance applied.

Key assumptions/sensitivities/risks	Discount rate (%)	Insert
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A key risk is that fraudulent claims increase because of the wide range of vehicles requiring compulsory insurance which may not have an obvious traceability marking, and the ability to make claims for accidents happening on private land. This will increase costs to consumers.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A Benefits: N/Q Net: N/Q	N/Q

Summary: Analysis & Evidence

Policy Option 3

Description: Modify domestic legislation in line with the Commission’s high-level proposal to amend the Directive. This will involve further engagement with the Commission as they refine their proposal and further engagement with stakeholders about the detail of any change to domestic legislation. It is the Government’s preferred option as it would mitigate the effects of the Vnuk judgment, most notably in that use of vehicles on private land would not be in scope of the Directive.

FULL ECONOMIC ASSESSMENT

Price Base Year: Year	PV Base Year: Year	Time Period Years: Insert	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/Q

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/Q	Insert	N/Q

Description and scale of key monetised costs by ‘main affected groups’

Consultation will seek data which will be used to quantitatively assess the costs and benefits in the final stage IA.

Other key non-monetised costs by ‘main affected groups’

The IA describes, in qualitative terms, costs to insurers, to the Motor Insurers Bureau, to other businesses, to individuals and to society (enforcement and criminal justice costs),

We would expect the types of costs and main affected groups to be similar to option 2, but to a lesser extent because compulsory insurance would not be needed on private land (potentially ruling out, for example, much of the motor sports and agricultural sector; this would not only avoid imposing the obligation on many people but it would also lessen the scope for fraud.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/Q	Insert	N/Q

Description and scale of key monetised benefits by ‘main affected groups’

Consultation is seeking data which will be used to quantitatively assess the costs and benefits in the final stage IA. There will be costs associated with enforcement and to the criminal justice system (CJS) if there is a rise in prosecutions for driving a motor vehicle without insurance and/or keeping a motor vehicle without insurance.

It is estimated by Ministry of Justice (see Annex C), that the costs to CJS agencies will be approximately £400 per additional defendant proceeded against for driving a motor vehicle without insurance and approximately £300 for keeping a motor vehicle without insurance Government has not made an assumption about how many people would be proceeded against under the respective options, views are being sought in the consultation, but this is a cost per person.

Other key non-monetised benefits by ‘main affected groups’

The main benefit would be to people injured or who experience property damage who will be able to claim compensation in a wider range of circumstances, not previously covered by existing legislation. The Government will seek to gather evidence during consultation to provide a fuller picture of these in the final stage impact assessment. There would also be benefits arising from a potential reduction in the number of accidents through improved driver/user behaviour if compulsory insurance applied.

Key assumptions/sensitivities/risks

Discount rate (%)

Insert

A key risk is that fraudulent claims increase because of the wide range of vehicles requiring compulsory insurance which may not have an obvious traceability marking. This will increase costs to consumers because premiums would have to increase to pay for the fraud.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m: N/Q
Costs: N/A	Benefits: N/Q
Net: N/Q	

1 Introduction

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

Member States of the European Union and European Economic Area countries are required to transpose the Directive's minimum requirements into their national legislation. In GB, motor insurance requirements are set out in the Road Traffic Act 1998 ("the RTA") and in Northern Ireland in the Road Traffic (Northern Ireland) Order 1981 ("the NI Order"). A fuller explanation of the European and domestic legislation governing motor insurance in GB and Northern Ireland is set out in Annex A.

This consultation stage impact assessment sets out an analysis of options around extending the scope of compulsory motor insurance in line with the Directive following the Vnuk judgment.

Unusually, it assesses two options which are mutually exclusive; option 2 which reflects European law as it currently stands in light of the Vnuk judgment (which would involve a significant change to domestic legislation); and option 3 which reflects European law as Government considers it is likely to look if the Directive is amended in line with proposals put forward by the Commission (this would increase the scope of which vehicles require motor insurance in which situations, and hence more victims would have a straightforward route to compensation, but not expand the scope as widely as if implementing the Directive as it stands).

The Directive enables Government to derogate certain categories of vehicle from the requirement for motor insurance; this is discussed below. The consequence of derogation is that the user does not have to buy an insurance policy but victims of uninsured vehicles can claim compensation from the guarantee fund.

Given the UK's position as a full Member State of the EU, it is incumbent on the Government to take the necessary steps to comply with the Directive as soon as possible. So long as the UK's domestic legislation is out of step with EU law, victims of accidents involving motor vehicles do not have a route to compensation envisaged in the Directive (as interpreted by the Vnuk judgment); this exposes Government to risk. That is why we must set in train the preparatory work to amend domestic legislation now rather than waiting for the Directive to be amended. We want to be in a position to amend our legislation swiftly and smoothly once the Directive has been amended.

In simple terms, the relative potential regulatory burdens can be described in illustrative form; the arrows below show, in simple terms, the significant burden that would be imposed under option 2, compared to the baseline; and the more moderate burden that would be imposed under option 3:

Existing position under domestic legislation – third party insurance required for vehicles intended for use on roads when they are being used on roads or other public places. (Option 1 – do nothing. Cannot be maintained as out of step with European law.)



Position if we were to implement the Directive as interpreted in the Vnuk judgment – third party insurance required in respect of a range of vehicles, including non-road going vehicles and vehicles used on private land. (Option 2 - the default position if no changes are made by the Commission to the Directive.)



Position if Commission's proposals to amend the Motor Insurance Directive are passed – third party insurance required in respect of a range of vehicles, including non-road-going vehicles, but only where used on land over which the public has access. (Option 3 - the Government's preferred option.)



Therefore, on the face of it, and assuming that we do not derogate any vehicles, the Government's preferred option (option 3) would be a regulatory option in terms of increasing the degree of regulation at present but, crucially, it would be less regulatory than implementing option 2. However, the actual position is largely dependent on whether, and how, Government decides to use the power available in the Directive to derogate vehicles. This is discussed further below.

This single IA covers both Great Britain and Northern Ireland. Whilst Northern Ireland is part of the UK, it has devolved responsibility for legislation governing motor insurance. Accordingly, the NI Government will be responsible for ensuring that its domestic legislation is in line with EU law, but it is expedient for GB and NI to assess the potential impacts and seek views on potential solutions in a single IA and consultation exercise. The key objective is to enable more victims of accidents involving motor vehicles to have a route to compensation.

Despite undertaking comprehensive stakeholder engagement, the Department for Transport has encountered severe difficulties in securing sufficient evidence to inform this consultation version of the impact assessment; one key reservation voiced by stakeholders surrounded the public use of, for example, claims information. As part of the consultation on the Government's proposed direction, consultees are, therefore, invited to comment on existing analysis and provide any evidence which could seek to make it more robust.

We would particularly welcome further evidence on:

- the extent to which motor insurance premiums, for the generality of policy holders, might increase to provide the necessary compensation to a wider range of victims of vehicle accidents;
- factors relevant to which vehicles should be derogated from the requirement for motor insurance;
- the likely costs to the users of newly-in-scope vehicles which would require compulsory insurance
- the potential number and size of compensation claims from victims who would be eligible, as a result of the proposed changes, to put claims to the MIB;
- the likely effect of the changes on the existing level of compliance with the statutory requirement for motor insurance (that is, do you think more people will try to avoid getting insurance both for existing motor vehicles and those potentially newly in-scope of the requirement to be insured?); and
- the potential for fraudulent activity generated by these proposals; and how that might be combatted.

We would welcome evidence which would help us to assess both options. Whilst we are clear that amending the Directive and implementing option 3 is preferable, we are mindful of the fact that the proposal must result in a change to the Directive by the Commission in order for us to pursue that option.

2 What is the problem under consideration? Why is government intervention necessary?

2.1 Problem under consideration

The tables below highlight why the Vnuk judgment has generated problems in relation to both users of newly-in-scope vehicles (domestic legislation does not impose the obligations for insurance required by the Directive as interpreted by the Vnuk judgment); and victims of accidents involving newly-in-scope vehicles (who do not have the route to compensation envisaged in the Directive (as interpreted by the Vnuk judgment)).

Drivers/riders – in what circumstances do they, or would they, require compulsory insurance?

[Note: no decisions have yet been made about derogating types of vehicle from the compulsory insurance requirement; the assumption in this IA is that all vehicles in scope would require an insurance policy.]

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Insurance required for motor vehicles intended for use on the road which must be registered with DVLA.	Yes	Yes	Yes
Insurance required for motor vehicles newly within scope of the Directive	No Problem – must change to yes under options 2 and 3	Yes	Yes
Insurance required on roads and other public places	Yes	Yes	Yes (Though it is to be termed “land over which the public has access”)
Insurance required on private land to which public has no access.	No Problem – must change to yes under option 2	Yes	No

Victims – do they have, or would they have, the protection of the Guarantee Fund when hit by a driver/riders who is uninsured or cannot be traced?

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Victim is hit by user of a vehicle intended for use on the road – and the accident happens on a road or public place	Yes	Yes	Yes
Victim is hit by user of a vehicle intended for use on the road – but accident happens on private land to which public has no access	No Problem – this must change to yes under option 2	Yes	No
Victim is hit by a newly-in-scope vehicle – and the accident is on road or other public place	No Problem – this must change to yes under options 2 and 3	Yes	Yes

There is an existing statutory requirement in domestic legislation for drivers of vehicles that are intended or adapted for use on roads to have insurance which covers third party liabilities; the requirement applies when the vehicle is being used on a road or other public place.

The objective underpinning this current statutory requirement is to protect the insured where culpable for an accident on a road or other public place in which a third party is injured, or serious damage is caused to their property, and to provide the third party victims of such accidents with a route to compensation, the most obvious being through the culpable user's insurance cover. However, the current law recognises that some victims will need protection where the user is untraced or uninsured. In these circumstances, victims can put a claim to the MIB which acts as a guarantee fund. The MIB will consider claims from victims of accidents which involve vehicles that are intended or adapted for use on roads and where the accident happened on a road or other public place. In other words, the MIB only entertains claims from victims if there is a statutory obligation for the vehicle causing an accident to have third party cover.

A judgment in the European Court of Justice in 2014 – the Vnuk judgment – interpreted the Motor Insurance Directive in a very broad way. It is described in greater detail in Annex B, but the crucial point arising from the judgment is that third party cover must be in place in any circumstances where a vehicle is being used in a way that is *“consistent with the normal function of that vehicle”*.

The clear implications of the judgment are that:

- (i) compulsory cover for third party liability cannot be limited to use on roads and other public places, and
- (ii) this means that more vehicles are within scope of the Directive; potentially this includes motor sports vehicles, mobility scooters, electrically assisted pedal cycles, industrial vehicles, segways, dodgems etc (which we term 'newly-in-scope vehicles' – in some cases they might already be insured on a voluntary basis, but the insurance is unlikely to meet the strict requirements of the Directive).

This necessitates a change in the UK's legislation to cover a range of vehicles and circumstances not currently provided for in domestic legislation. For example, third party insurance must be in place to cover vehicles which are not on a road or other public place, which would therefore cover participant-to-participant accidents in motor sports. It is

However, the European Commission recognised the significant nature of this judgment and have proposed an amendment to the Directive to limit the effect of the Vnuk judgment. This proposal, discussed in the policy objectives below, is essentially a compromise; if the Directive is amended in line with the Commission's existing proposal, we would have to make less significant changes to our domestic legislation to reflect the amended Directive.

2.2 Rationale for Intervention

Under current domestic legislation victims of motor vehicle accidents have a route for claiming compensation when an accident occurs on the road or other public place; and where the vehicle involved is intended for use on the road. In other words, where a vehicle is being used in a circumstance that requires third party cover, a victim has a route to compensation – if the vehicle is insured then that route is through the insurer and if it is not insured or cannot be traced then that route is through the MIB.

The reason for Government intervention is to ensure that victims of motor vehicle accidents have a route to compensation in all the circumstances envisaged in the Directive following the ECJ's interpretation which widened the scope of the Directive. This requires an amendment to the domestic legislation for which the Government is responsible. As the Directive was interpreted in the Vnuk judgment these circumstances become quite broad, but under the proposed change to EU law which is currently being developed by the Commission we consider it likely the circumstances would be narrower.

Intervention is also required to ensure that Government is compliant with European law, following the Vnuk judgment, and is not exposed to the risks arising from the fact that domestic legislation does not comply with European law.

3 What are the policy objectives and the intended effects?

Our principal objectives are:

- to provide the victims of accidents caused by the negligent use of all motor vehicles in scope of the Directive with a route to compensation in all the circumstances covered by the Directive. This route will, in most cases, be to the insurance company. But the crucial point is that the MIB would be the route to seeking compensation in the event that the user of the vehicle is not insured, the vehicle cannot be traced, or the vehicle is derogated;
- to protect users of all motor vehicles from civil liability in respect of third party risks arising from use of the vehicle – this will mean extending compulsory insurance beyond the range of motor vehicles which are used on roads or in public places;
- to develop a coherent and fairly balanced rationale for making decisions about whether to derogate from the insurance requirement the users of any categories of motor vehicles;
- to establish a proportionate and cost-effective enforcement regime;
- to keep any additional costs to individuals, business and society arising from the changes to a minimum, commensurate with making the changes required under the Directive; and
- to minimise the scope for fraud.

4 What policy options have been considered?

4.1 Option 1 - Do nothing.

Drivers/riders – in what circumstances do they, or would they, require compulsory insurance?

[Note: no decisions have yet been made about derogating types of vehicle from the compulsory insurance requirement; the assumption in this IA is that all vehicles in scope would require an insurance policy.]

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Insurance required for motor vehicles intended for use on the road which must be registered with DVLA.	Yes	Yes	Yes
Insurance required for motor vehicles newly within scope of the Directive	No Problem – must change to yes under options 2 and 3 This problem would still exist under the do nothing option.	Yes	Yes
Insurance required on roads and other public places	Yes	Yes	Yes (Though it is termed “land over which the public has access”)
Insurance required on private land to which the public does not have access	No Problem – must change to yes under option 2. This problem would still exist under the do nothing option	Yes	No

Victims – do they have, or would they have, the protection of the Guarantee Fund when hit by a driver/rider who is uninsured or cannot be traced?

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Victim is hit by user of a vehicle intended for use on the road – and the accident happens on a road or public place	Yes	Yes	Yes
Victim is hit by user of a vehicle intended for use on the road – but accident happens on private land to which public has no access	No Problem – this must change to yes under option 2 This problem would still exist under do nothing option	Yes	No
Victim is hit by a newly-in-scope vehicle – and the accident is on public land	No Problem – this must change to yes under options 2 and 3 This problem would still exist under do nothing option.	Yes	Yes

The “do nothing” option (option 1) assumes that Government makes no changes to domestic legislation. It is the baseline against which this impact assessment assesses options 2 and 3.

The consequence of Government failing to amend domestic legislation would be that:

- (i) there would be no obligation on users of newly-in-scope vehicles (ie vehicles brought within scope of the Directive by virtue of the Vnuk judgment) to have third party insurance;
- (ii) there would be no cover for the user of newly-in-scope vehicles; there would be serious personal financial consequences if culpable for an accident involving a third party without insurance cover;
- (iii) victims of accidents involving newly-in-scope vehicles would not have the protection afforded by the guarantee fund, rather they would have to continue to seek any redress against an uninsured user through the civil courts;
- (iv) Government would be failing to meet its obligations as a Member State of the EU; and
- (v) Government would remain exposed to the financial risks inherent in retaining domestic legislation which is out of step with European law, following the Vnuk judgment (see “Risks and Assumptions” section for further details).

Non-regulatory option

We have taken account of the EU Guiding Principles¹ in considering how to comply with the proposed changes to the Directive. In particular we have considered whether there is an option which does not require an amendment to legislation. We concluded that this is not a valid option; the Directive following the Vnuk judgment requires that the users of newly-in-scope vehicles are covered by insurance. This requirement is given effect on roads and public places at the moment by primary legislation - the RTA in GB and the NI Order in Northern Ireland - and extending the requirement to users of newly-in-scope vehicles in a wider range of circumstances will require a change to the primary legislation.

The Directive does give us the option of derogating certain categories of vehicle from the requirement for insurance; and we will consider, through consultation, whether to make use of that option. The issue of derogations is discussed in greater detail below.

4.2 Option 2 – Implement the Directive as interpreted in the Vnuk judgment,

Users – in what circumstances do they, or would they, require compulsory insurance?

[Note: no decisions have yet been made about derogating types of vehicle from the compulsory insurance requirement; the assumption in this IA is that all vehicles in scope would require an insurance policy.]

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Insurance required for motor vehicles intended for use on the road or other public place which must be registered with DVLA.	Yes	Yes	Yes
Insurance required for motor vehicles newly within scope of the Directive	No Problem – must change to yes under options 2 and 3	Yes Problem identified in do nothing option would be solved.	Yes
Insurance required on roads and other public places	Yes	Yes	Yes (Though it is to be termed “land over which the public has access”)
Insurance required on private land to which public has no access	No Problem – must change to yes under option 2	Yes Problem identified in do nothing option would be solved.	No

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185626/bis-13-774-guiding-principles-for-eu-legislation.pdf

Victims – do they have, or would they have, the protection of the Guarantee Fund when hit by a user who is uninsured or cannot be traced?

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Victim is hit by user of a vehicle intended for use on the road – and the accident happens on a road or public place	Yes	Yes	Yes
Victim is hit user of a vehicle intended for use on the road – but accident happens on private land to which public has no access	No Problem – this must change to yes under option 2	Yes Problem identified in do nothing option would be solved.	No
Victim is hit by a newly-in-scope vehicle – and the accident is on public land	No Problem – this must change to yes under options 2 and 3	Yes Problem identified in do nothing option would be solved.	Yes

Adopting option 2 will mean amending domestic legislation to impose an insurance requirement on (or derogate) the users of newly-in-scope vehicles. The sorts of vehicles which potentially fall within scope under this option are mobility scooters, motor sports vehicles (including participant to participant cover for vehicles normally used for racing), electrically assisted pedal cycles, segways, agricultural vehicles, industrial vehicles, fork lift trucks, ride-on lawnmowers, fairground vehicles (eg dodgems).

This “maxi option” would generate considerable problems both in principle and in practice. It is highly questionable whether Government should seek to impose the burden of compulsory insurance on the users of vehicles which operate solely on private land and were never envisaged as being within scope of the first Motor Insurance Directive in 1972. In practice, it would generate some very real difficulties; – the cost of covering participant-to-participant liabilities in motor sports would be prohibitive in many cases, and that is if the insurers were actually prepared to take on the risk; we have heard anecdotally that insurance in this circumstance might not be available; enforcement would be extremely difficult in respect of vehicles on private land; and the scope for fraudulent claims would be increased considerably.

In light of the judgment, the UK Government liaised with the Commission and other Member States with the objective of securing a change to the Directive to mitigate the most severe effects of it (mainly the obligation for insurance when a vehicle is used on private land). The progress made in this respect is reflected in option 3.

4.3 Option 3 (preferred option) - Modify domestic legislation in line with the high-level proposal to amend the Directive

Drivers/riders – in what circumstances do they, or would they, require compulsory insurance?

[Note: no decisions have yet been made about derogating types of vehicle from the compulsory insurance requirement; the assumption in this IA is that all vehicles in scope would require an insurance policy.]

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Insurance required for motor vehicles intended for use on the road which must be registered with DVLA.	Yes	Yes	Yes
Insurance required for motor vehicles newly within scope of the Directive	No Problem – must change to yes under options 2 and 3	Yes	Yes Solves problem identified in do nothing option
Insurance required on roads and other public places	Yes	Yes	Yes (Though it is termed “land over which the public has access)
Insurance required on private land to which public has no access	No Problem – must change to yes under option 2	Yes	No Problem identified in do nothing option would not exist if Directive is amended.

Victims – do they have, or would they have, the protection of the Guarantee Fund when hit by a driver/rider who is uninsured or cannot be traced?

	RTA/NI Order (Current position – do nothing - option 1)	Vnuk judgment (Amending domestic law in line with EU law as interpreted in Vnuk – option 2)	Proposed change to Directive (Modify domestic legislation in line with the high-level proposal to amend the Directive – option 3)
Victim is hit by user of a vehicle intended for use on the road – and the accident happens on a road or public place	Yes	Yes	Yes
Victim is hit by user of a vehicle intended for use on the road – but accident happens on private land to which public has no access	No Problem – this must change to yes under option 2	Yes	No Problem identified in do nothing option would not exist if Directive is amended.
Victim is hit by a newly-in-scope vehicle – and the accident is on public land	No Problem – this must change to yes under options 2 and 3	Yes	Yes Solves problem identified in do nothing option

The UK recognised at an early stage the difficulties and challenges arising from the Vnuk judgment. We liaised with the European Commission and other Member States over these concerns; and the Commission held two expert group meetings to understand the issues and work out a potential solution. On 8 June 2016 the Commission put forward high level proposals² to amend the Motor Insurance Directive, with the specific

² http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_fisma_030_motor_insurance_en.pdf

intention of mitigating the most severe effects of the Vnuk judgment. Their Inception Impact Assessment recognised and endorsed the vital protections for motor vehicle accidents provided by the Directive but expressed concern about the wider implications of the judgment:

“As a consequence of the Court ruling, potential compensations extend beyond the context of traffic-related motoring; purely agricultural, construction, motorsports or fairground activities could be required to be either insured or exempted from insurance but covered by compensation funds, to which the only contributors are motorists. This could lead to increases in premiums for all policyholders.”

Consequently, the Commission set out a policy objective:

“..... to maintain a high degree of protection for victims of motor vehicle accidents whilst respecting the right of Member States to set up arrangements at national level to protect victims of accidents that are the result of agricultural, construction, industrial, motor sports or fairground activities”.

The IIA goes on to describe several options, but our understanding is that they are minded to pursue a policy as follows:

“.....the proposed approach seeks to effectively exclude the activities listed above from the scope of the Motor Insurance Directive. In the absence of compulsory policies covering these activities at EU level, the scope of the Motor Insurance Directive should be limited to the use of vehicles in the context of traffic.”

However, their proposed definition of “use in traffic” could potentially cut-across their objective:

“The use in traffic could mean where the use of a vehicle is for the transport of persons or goods whether stationary or in motion, in areas where the public has access in accordance with national law.”

There could be circumstances where vehicles in all of the categories mentioned above are used in areas where the public has access. We understand the Commission regard the “transport of persons or goods” as a key determining factor as to whether a vehicle falls within scope of the Directive: for example they consider a dodgem car to be a form of entertainment, not a means of getting to a destination.

In simple terms it seems that the Commission want to eliminate the extension of compulsory motor insurance from private land to which the public has no access. That is a significant and welcome step.

But nonetheless, it would mean imposing an insurance requirement on the users of a wider range of vehicles than under existing domestic legislation and in a wider range of circumstances (or derogating those vehicles).

Two examples of vehicles which might fall within scope of the Directive under the Commission’s proposals are electrically assisted pedal cycles (EAPCs) and mobility scooters. The latter, in particular, travel *“in areas where the public has access”* where vehicles currently obliged to have motor insurance do not travel, such as shopping malls and walkways, so that will entail some new considerations.

The element of inconsistency generated by the definition of “traffic” can be seen in relation to a farm where the public has access to pick and purchase fruit. The Commission’s proposal intimates that compulsory insurance should not be required for purely agricultural activities, but if a tractor travels through an area of the farm where the public are openly permitted to pick fruit, it arguably becomes a traffic situation.

It should be stressed that the Commission’s proposals are currently at a high-level and they still have work to do in refining and presenting their proposals; they plan to do this in due course. But we are sufficiently persuaded by the direction of travel as conveyed in the IIA, and the broad support from other Member States, to recognise that this will be less regulatory and costly than option 2 (subject to decisions on derogations) and balances the interests of victims, society and users of the newly-in-scope vehicles.

We are satisfied that in pursuing option 3 we will do so in such a way as to meet our obligations in terms of transposing the Directive, and will not amount to gold-plating.

Related issues

There are several issues which are intrinsically linked to motor insurance and which will be affected by any proposals to amend domestic legislation. They are described briefly below, but they will be covered more fully in the consultation document; only after we have consulted will we know how we intend to deal with each of them and, accordingly, what impact they will have on costs and benefits.

Derogations

The Directive allows Member States to make derogations from the motor insurance requirements for categories of vehicle. If a vehicle is derogated it means that the vehicle does not have to be covered by an insurance policy. But if the user has chosen not to get an insurance policy and subsequently injures a victim, that victim may claim compensation from the MIB.

The important point to bear in mind is that derogations may result in compensation payments being made by the MIB, and the costs added to the generality of motor insurance premiums if the vehicles involved in accidents are not insured. The MIB has powers to seek recovery from the driver of any compensation payments made to victims, but inevitably such recoveries are not secured in every case and, taking account of untraced drivers as well, where no recovery can be pursued, it is a fact that the MIB is making payments which are not recovered. As such derogations are a choice about who generally bears the cost of compensating victims of accidents caused by these vehicles – the vehicle user (through regular premiums) in the case of vehicles requiring insurance, or the motoring public (through increased premiums to insurers who pay increased contributions to MIB to meet claims paid out of the MIB's guarantee fund) in the case of the vehicles that are derogated.

The cost/benefit implications of derogating vehicles are discussed further, in general terms, below. But it should be noted that **Government has made no decisions yet about whether to derogate any categories of vehicle; decisions will be informed by the consultation exercise.** Accordingly, ***this consultation stage IA assumes that no vehicles will be derogated*** and that where a vehicle is within scope of the Directive, the user will have to be covered by a policy of insurance which is compliant with the Directive. We recognise that the deployment of derogations will have a crucial effect on the overall impact of the changes we are proposing in both options 2 and 3 and this will be assessed fully in the final IA.

However, we do consider it important to use the consultation to seek views on the most suitable rationale on which to base decisions about derogations.

Enforcement

Under both policy options 2 and 3, the number of newly-in-scope vehicles potentially requiring compulsory insurance, will increase (substantially in the case of option 2 and less so in the case of option 3).

Consideration will have to be given to the most suitable, cost-effective and proportionate means of enforcing any new requirement for third party insurance. The consultation document seeks views on the most appropriate system of enforcement, whether, for example, to establish and maintain a comprehensive database of every newly-in-scope vehicle, give every vehicle a traceability marking and expand the existing Motor Insurance Database to include every policy in respect of these vehicles; or whether to adopt a distinct and more light-touch approach to newly-in-scope vehicles.

Clearly the method of enforcement which Government adopts in respect of newly-in-scope vehicles will have a crucial impact on overall costs, but at this stage we want to understand, through consultation, what the full implications would be of adopting a comprehensive or a lighter touch approach, so this impact assessment does not monetise the respective costs and benefits.

SORN

The keeper of a vehicle which is subject to registration can make a SORN declaration if their vehicle is kept off-road. The dual consequences of SORN are (i) the keeper does not pay Vehicle Excise Duty (VED); and (ii) the vehicle does not need to have insurance. The Vnuk judgment changes this position. Under option 2, whilst the VED exemption could still apply to vehicles used off-road, the blanket insurance exemption cannot remain in place because the compulsory insurance requirement established by the Vnuk judgment will apply.

One option would be to impose a requirement that all vehicles which are subject to a SORN declaration must have an insurance policy in place which covers third party liabilities. This would impose a burden on the owners of vehicles which are “parked up” and not in use. An alternative option would be to impose the requirement for insurance only when SORN’d vehicles are actually **used** off road. (If they are used on-road, the SORN would no longer apply anyway.) In this way, the onus would be on the user of the vehicle to comply with the requirement to have third party cover in place when the vehicle was being used.

The Government wants to seek views during consultation about how best to deal with vehicles that are subject to SORN declarations.

5 Costs and benefits (Options 2 and 3)

This section looks at the costs and benefits of making changes to the scope of domestic compulsory motor insurance under both options 2 (the default position under the Vnuk judgment if the Commission’s proposals fail); and option 3 (our preferred option).

We have defined the baseline as the RTA, and equivalent legislation in Northern Ireland, since most costs and benefits of options 2 and 3 are not currently being felt by parties in the UK (because domestic legislation has not yet been amended to bring it in line with the Directive). In time this may change, due to the Government’s exposure to financial risks where domestic law is not in line with EU law.

Although we have included indications of costs and benefits, these will need to be developed and expanded using the information we receive from consultation respondents. The costs and benefits highlighted in this impact assessment have been derived through discussion with the Motor Insurance Bureau, the Association for British Insurers, the British Insurance Brokers Association as well as representatives of a number of individual insurance companies that may be affected. Furthermore, the initial estimates of potential additional costs to the criminal justice system have been derived through liaising with the Ministry of Justice.

Option 2 (compared to baseline option 1)

Costs

Number of claims

Under the baseline (option 1) victims of accidents caused by the drivers of vehicles which must be insured by virtue of the obligations under domestic legislation have a route to compensation through either the insured, or the MIB. Victims of accidents involving the use of vehicles which are not subject to compulsory insurance are not afforded the protection of the MIB’s guarantee fund; if they want to pursue a claim for compensation their route is through the civil courts.

Option 2 broadens, quite considerably, the obligation for insurance and, consequently, extends the range of circumstances in which victims may claim compensation from the MIB. It provides victims of accidents caused by the use of newly-in-scope vehicles with a route to compensation; this will be either through the driver’s motor insurance or through the MIB. As such moving to option 2 will transfer the cost of paying compensation in respect of newly-in-scope vehicles from individuals who are currently sued in the civil court to either insurers and the newly-insured or (where vehicles are uninsured or derogated) the MIB; and in turn onto the generality of policyholders.

Adopting option 2 (and to the same extent option 3) will also increase awareness amongst the general public of the broader range of newly-in-scope vehicles resulting in an increase in the number of claims from victims relative to the baseline option 1. Whilst we have no evidence, it seems likely that instances of victims currently choosing to sue the users of uninsured vehicles in the circumstances that would be in scope under option 2, is low. Clearly, giving these victims the ability to claim from the MIB would increase the likelihood of their seeking compensation.

Given difficulties in enforcement and investigating claims, there is also likely to be an increase in the proportion and number of fraudulent claims. As such the overall number of claims in option 2 will be higher than option 1, which would add to the total cost of compensation paid by motor insurers and MIB.

Derogation

The level of costs and whom they fall on will depend on whether and what vehicles are derogated. If certain vehicle types are derogated, it would be up to the user to decide whether they wanted to buy an insurance policy; they could choose to buy insurance but the crucial point is that they would not be obliged to do so. Victims of accidents involving derogated vehicles would nonetheless have a route to compensation. In the event that the user of a derogated vehicle chose not to buy an insurance policy, victims of an accident involving that vehicle could make a claim to the MIB, who would not only pay compensation to those who successfully claim but would also incur additional administrative costs to process the additional claims. These additional costs would be passed on to motor insurers through the levy charged by the MIB to motor insurers, which will ultimately be passed on to the premiums of those motorists currently obliged to have third party insurance under the Road Traffic Act. The average premium for comprehensive cover on a private car in the UK was £434 in Q2 2016. This would increase under option 2 if certain types of vehicles were derogated. **As such derogations would transfer the costs of cover from users of vehicles newly in scope to all those obliged to have insurance under domestic legislation (the wider motoring public).** The ability of the MIB to recover their costs from users of derogated vehicles not electing to take out insurance and causing an accident, may partially mitigate the costs borne by the wider motoring public. This was discussed in section 4.3.

Any use by Government of derogations for any categories of newly-in-scope vehicles would also reduce the need for insurers to create new insurance products to deal with them. It would also reduce the additional administrative costs for police needed for enforcement, which are discussed later in the document, thereby reducing overall administrative costs from the additional scope of cover from the Vnuk judgment.

As discussed earlier, we will consult before deciding which vehicles should be derogated. Therefore **for the purposes of this impact assessment it is assumed that no vehicles are derogated; accordingly, any newly-in-scope vehicles under option 2 will need to be covered by users buying an insurance policy.**

Additional transaction and administration costs

Costs of developing insurance product. Insurers would need to develop new insurance products and provide policies for those vehicles newly in scope. Industry have told us that it is difficult to estimate the unit cost of developing a new product, but given the number of vehicles in scope we would expect this to be notable. This is expected to be a one-off cost and is likely to be passed on to users of newly-in-scope vehicles through higher initial premiums.

Discussions with stakeholders have also raised concerns around whether or not insurers would enter the market and develop new products for some of the newly-in-scope vehicles due to the difficulty in investigating claims on private land (necessary under option 2 only) and the lack of claims history resulting in insurers not wanting to take on the additional risk or pricing it at such a cost that consumers are unwilling to buy it.

Familiarisation costs. Insurance companies will have to familiarise themselves with the new requirements for insurance. The MIB will have to familiarise itself with the change in the law as they would have to consider claims in a wider range of circumstances. Businesses with fleets will have to familiarise themselves with new requirements and potentially adjust processes to ensure that their vehicles are compliant in any new circumstances covered by the changes. Individuals and businesses with newly-in-scope vehicles will have to understand the new requirements, particularly where there had been no requirement for insurance previously. These costs are expected to be relatively higher in the early stages of the appraisal period but will fall over time.

Monitoring and enforcement costs. This would involve monitoring the purchases of the vehicles now in scope and ensuring they were insured. Discussions with stakeholders suggest this may require multiple databases for each product monitoring the number of products bought, who they were purchased by and whether they were insured – similar to databases operated by the DVLA in respect of vehicles currently covered by the RTA and NI Order. Considering the number of vehicles newly-in-scope under option 2, the additional costs and burden of developing and operating these databases is expected to be large and disproportionate. We intend to elicit, through consultation, views on the most suitable and effective means of

enforcement and until we have a more developed policy on this issue, the nature of costs, and the identity of whom they will fall to, cannot be fully assessed.

In addition, there will need to be an increase in policing costs to undertake operational enforcement to ensure that newly-in-scope vehicles are insured and to take action against those that are not insured. Discussions with police also raised the possibilities of additional costs to familiarise themselves with any new requirements and understand the wider range of circumstances and vehicles where insurance will be compulsory. There would also be a high cost to DVLA in administering enforcement action.

Costs of prosecuting uninsured vehicles. In addition to the high cost of enforcement, the lack of traceability markings on newly-in-scope vehicles, makes it difficult to monitor and enforce insurance. As a result, there is likely to be a significantly higher proportion of uninsured users and ‘hit and run’ incidents involving newly-in-scope vehicles compared to those currently obliged to be insured under domestic legislation. The challenges surrounding enforcement and investigation also make it more difficult for the MIB to recover costs from negligent drivers causing the accidents for which MIB have paid compensation. In 2014 £9.3m was recovered by the MIB pursuing negligent drivers for where claims were paid, the proportion of recovered payments is likely to be much lower for those newly in scope.

Depending on the level of enforcement and how often uninsured users will be caught, the costs of prosecuting uninsured users is expected to increase adding to costs faced by the criminal justice system. The table below outlines the estimated costs to the criminal justice system (CJS) for each additional defendant proceeded against for the offences of driving and keeping a motor vehicle without insurance (summary only offences). More detail on this is in Annex C.

<u>Offence</u>	<u>Cost per additional defendant proceeded against</u> ³⁴
Summary only offences	
Driving a motor vehicle without insurance	£400
Keeping a motor vehicle without insurance	£300

It is also worth noting that claims made in respect of uninsured or untraceable drivers are made to the MIB, so therefore despite proceeding down the insurance route a significant proportion of claims will need to be dealt with by the MIB if there is a high proportion of untraced or uninsured vehicles.

Cost to users of newly-in-scope vehicles. In option 2, users of newly-in-scope vehicles will be required to purchase insurance to cover their vehicles if they use the vehicle both on public land/land to which the public have access or private land. This must cover liabilities for personal injury up to EUR 1m per victim or EUR 5m per claim; and in respect of property damage EUR 1m per claim. (The minimum liability for property damage will increase in January 2017 to EUR 1.22m per claim; this change will be incorporated into domestic legislation. Similarly the minimum level of liability in the Directive for personal injury will increase to EUR 6m, but, given that domestic legislation requires this to be unlimited, there is no need to amend it.). The obligation for cover and insurance (assuming no derogations) will be needed for a wide range of vehicles and situations. In some cases the premiums for insurance are likely to be lower (for those that are low risk and cost of accidents) while in others the premiums are expected to be very large, and in certain cases even uninsurable.

The insurance premium will add to the cost of buying and using newly-in-scope vehicles and this might discourage people who currently own these vehicles such that they dispose of them or are reluctant to buy them in the future. The size of this reduction in overall numbers will depend on the responsiveness of demand relative to price (price elasticity of demand) for each product, the size of the premium and whether insurance cover can actually be provided. Monetising the size of these premiums and the subsequent response is extremely difficult, instead an indicative rating of different vehicles and sectors now in scope is

³ This includes CPS and HMCTS costs which are calculated on a per case basis.

⁴ Rounded to the nearest £100 and in 2014/15 prices.

given in the table below. The dearth of information we received during initial informal discussions with stakeholders meant that we were unable to assess impacts in a rigorous manner at this stage. Rather than simply going to consultation with a further, more formal, request for information, we thought it helpful to build up our own best estimate of the likely impact on the basis that it gives consultees something more concrete to comment on.

Vehicles/sectors in scope of option 2 with indication of premiums and price response:

Vehicles/sectors	Number of vehicles	Number of vehicles in scope	Premiums	Price response
Mobility scooters	High - up to 350,000 ⁵	High	Low	Low
Electrically assisted pedal cycles	High - approx. 100,000 ⁶	High	Medium	High
Motor sports	High - approx. 30,000 ⁷ competition license holders and 5,000 motor sport events every year for 4-wheel sports and 23,000 license holders and 3000 events per year for 2-wheeled sports	High	High	High
Segways	Low - no information on segways, but predicted to be low	Low	Low	High
Quad bikes (off-road)	Low - no information on off-road quad bikes, but predicted to be low	Low	Medium	High
Industrial vehicles	High - no information on industrial vehicles, but predicted to be high	High	Medium	Medium
Golf buggies	Medium - no information on golf buggies, but predicted to be medium	Medium	Low	Medium
Children's toys (eg mini motorbikes and karts)	Low - no information on toys, but predicted to have to be low	Low	Low	High
Fairground vehicles (eg dodgems)	Low - no information on fairground vehicles, but predicted to have a low rating	Low	Low	Medium
Agricultural vehicles	Low - no information on agricultural, but predicted to have a low rating	Low	Medium	Medium
Ride on lawnmowers	Low - no information on ride on lawnmowers, but predicted to have a low rating	Low	Low	High

⁵ Best estimate from stakeholder event at DfT 2015

⁶ Estimate from Bicycle Association

⁷ Information from Vnuk Industry Action Group

Costs to business

There will be an increased cost to industries and businesses which operate newly-in-scope vehicles that would require compulsory insurance. An important consideration in this regard is that many businesses with vehicles which are covered by Employers Liability (EL) or Public Liability (PL) policies will have to make adjustments. EL and PL policies are unlikely to meet the requirements of the Directive; the businesses will have to rearrange cover such that the policies are compliant. This largely affects industrial vehicles used on private land, for example, a fork lift truck used exclusively in a warehouse which would be covered by an EL and possibly PL policy at the moment would have to be covered by a motor insurance policy. If it becomes a requirement to register all vehicles on a database, businesses would incur an additional cost in complying. The cost of this would be proportionate to smaller and larger businesses depending on the number of vehicles and activities that now fall in scope. This cost would not be incurred by the industries or businesses if vehicles were derogated from the requirement for motor insurance.

However, derogating such vehicles would increase premiums and costs for the vehicles currently requiring compulsory cover under domestic legislation. As such this would increase costs for industry and businesses which rely on fleets to provide their service, for example delivery companies or minicab operators. In this example it is unclear how additional costs to insurers from a higher MIB levy is passed on to existing insurance customers and therefore unclear whether this is likely to impact SME's more than larger businesses. MIB estimate that the current cost of their activities is currently £15-30 per policy⁸.

The increase in scope of the Directive under option 2 would have the biggest impact on the motor sports sector, which currently adds in excess of £10bn to the UK economy each year directly employing 60,000 people in over 9,000 businesses. In both the two-wheeled and four-wheeled sectors of the industry collisions between competitors are common but there is no third party insurance requirement covering these collisions; the competitors simply take on the risk as an integral part of their participation in the activity.

Motor cycles and Motor sport industry in the UK:

	Motorsport UK	Motorcycle UK
Competitors	28,110	61,000
Competitor licences	30,325	NA
Events	4,875	4,275
Licensed Venues	119	NA
Spectators	>650,000	>1.4 million
Motorcycle track day	NA	>30,000
Motorsport track day	>35,000	NA

Under option 2, the competitors in the motor sport industry would be required to purchase compulsory insurance cover that would cover competitor-to-competitor liabilities including both property damage and personal injury. Discussions with stakeholders suggest premiums for such insurance products would be very high especially taking into account the minimum level of cover needed under the Directive. Experience from the Netherlands and Finland is a helpful starting point. Here the cost of such a product is around 5,000 Euros per driver per annum. When compulsory competitor-to-competitor third party liability insurance was introduced in Finland it effectively ended grassroots motorsport in the country because this cost became prohibitive for the amateur motorsport enthusiast.

However, for the UK, the cost could be considerably higher as a result of personal injury claims requiring cover and with medical expenses being recoverable. In context, licence costs and event entrance costs are £60 per year and £30 per event for 2-wheeled sector respectively and up to £200 per year and minimum of £200 per event for 4-wheeled sector. The additional cost of an insurance requirement would significantly add to the costs of a competitor leading to a considerable fall in participation of motor sport events. Views from stakeholders suggest that in practice this would cause the sector to collapse.

There would be considerable difficulty in investigating claims made by lower level motor sports that are not televised or where there are no accident witnesses; assessing such claims would be challenging, which may

⁸ MIB (2016) Q2. What is the cost of the operation of these Agreements to the individual motor policyholder <https://www.mib.org.uk/making-a-claim/faqs/>. Accessed 23 August 2016

result in the motor sport sector being a target for fraud. In addition, stakeholders have also expressed views on the disproportionate increase in burden for the motor sport industry to check competitors' unregistered vehicles to ensure they are correctly insured. Views from stakeholders suggest that in practice amending domestic legislation in line with the Vnuk judgment (option 2) would cause the sector to collapse.

Requiring users of vehicles newly-in-scope to purchase insurance would increase the costs of purchasing and operating such vehicles, which would discourage purchases thereby reducing demand for these vehicles and reducing revenues in each sector. The impact on demand and revenues as discussed earlier would depend on the price responsiveness of each vehicle itself, which is difficult to monetise but vehicles that users perceive more as a luxury, have many alternatives and will have higher premiums, so we will see a greater reduction in demand and therefore revenues for the sector. We expect to see the biggest impacts on the motor sports sector and vehicles used in the entertainment sector for example go-karts.

Benefits

Option 2 broadens, considerably, the obligation for insurance and, consequently, the range of circumstances in which victims can put a claim for compensation to the MIB. It enables victims of accidents involving the use of newly-in-scope vehicles to have a route to compensation; this will be either through the user's motor insurance or through the MIB. Given that victims of accidents where there is no requirement for insurance must either bear the costs themselves or seek any remedy they want to pursue through the civil courts, option 2 would result in giving victims of accidents involving such vehicles a quicker, easier and cheaper route to compensation.

At the moment, if the victim of an accident involving a vehicle which is not subject to the compulsory insurance requirement under domestic legislation wants to seek compensation, their route to compensation is through the civil courts. When a victim goes to the county court to sue the driver/rider, they must pay a fee for doing so; the fee is generally based on the amount of damages they are seeking. In the county court, the fee ranges from £35.00 for damages up to £300 through to £455 for claims up to £10,000. Given that the average personal injury compensation paid by insurers in respect of road-going motor vehicles is £10,680⁹, it is reasonable to assume that average damages arising from vehicles not currently subject to compulsory insurance are likely to be considerably lower. The fee for claims between £3,000 and £5,000 is £205 which constitutes our best assumption of the cost of suing a driver for damages relating to accidents caused by use of these vehicles in the civil courts.

This fee does not include costs of any legal representation which the claimant chooses to use. The cost of legal representation, depends on the approach adopted, and could potentially be borne by the claimant, their legal representative, the defendant's insurer and/or the defendant if they are not insured.

However, we recognise that, in accordance with para 2.3.42 of the Better Regulation Framework Manual¹⁰, our costs and benefits should not take account of situations where claims are made in our baseline through civil courts but are unsuccessful.

In option 2, victims of accidents involving the use of newly-in-scope vehicles would be eligible to make a claim through either the MIB or insurers; they would no longer have to rely on initiating a claim through the civil courts. Insurers and the MIB investigate and process a large number of claims annually and have efficient processes in place to investigate and process such claims; in 2014 insurers paid out £27m per day in motor claims with more than 70% of this being for domestic claims. As such the transaction costs to society of pursuing claims (including costs to user, legal costs of making claim and the processing of claims) through either the MIB or insurers are considerably lower than through the current route and as such there is a welfare gain from lower transaction costs from claiming.

Option 2 (and option 3) will also increase awareness amongst the general public that victims will have a route to compensation if they have an accident. This will be a benefit to victims who benefit from financial compensation whereas previously they would have faced the costs of accidents themselves. Overall, there

⁹ ABI [2015] Insurance Key facts 2015

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf.

will be an increase in the number of claims from those that have accidents with lower transaction costs, therefore providing a welfare benefit to society.

In addition, an insurance obligation acts as an incentive for users to drive safely thereby minimising their risk and in turn the cost of their premium. However the evidence on this is limited. It is worth noting that this is not the case for derogations as the cost would be passed on to existing motor users obliged by domestic legislation rather than being internalised by users of vehicles now in scope.

Question: Do stakeholders have a view on the number of additional claims as a result of increased awareness and increased fraudulent claims?

Question: What is the cost of investigating and processing a claim for insurers and the MIB?

Option 3 (compared to baseline option 1)

As discussed in section 4, option 3 would involve implementing the Commission's proposed amendment to the Directive, which increases the number of newly-in-scope vehicles in relation to the baseline, but less-so than in option 2, The crucial point about option 3 relative to the requirements in domestic legislation (the baseline) is that it would require vehicles not currently intended for use on roads to have insurance; but relative to option 2 it would not require motor insurance for vehicles on private land.

Costs

Number of claims

Similar to option 2, moving to option 3 will see a transfer of claims paid by the people who have been successfully sued in the civil court to insurers or MIB (and hence onwards to the generality of motor insurance policy holders). It is unclear what the size of this transfer is; any reduction in the number of claims as a result, particularly from the motor sport sector (in option 2), will be offset by greater awareness amongst the public that victims of accidents caused by negligent use of vehicles now in scope have a route to compensation which would increase the number of claims and would notably also lead to a high proportion and number of fraudulent claims.

Additional transaction and administration costs

Similar to option 2, option 3 would also face an increase in transaction costs for the following. However these will be notably lower in comparison to option 2:

- **Costs of developing insurance product.** Insurers would need to develop new insurance products and provide policies for those vehicles now in scope. Industry have told us that it is difficult to estimate the unit cost of developing a new product, but given the number of vehicles in scope we would expect this to be notable. This is expected to be a one-off cost and is likely to be passed on to consumers of new vehicles in scope through premiums.
- **Familiarisation costs.** Insurance companies will have to familiarise themselves with the new requirements for insurance. The MIB will have to familiarise itself with the change in the law as they would have to consider claims in a wider range of circumstances. Businesses with fleets will have to familiarise themselves with new requirements and potentially adjust processes to ensure that their vehicles are compliant in any new circumstances covered by the changes. Individuals and businesses with newly-in-scope vehicles will have to understand the new requirements, particularly where there had been no requirement for insurance previously. It is likely that the familiarisation costs for option 3 would be lower than for option 2 because there would be no requirement for compulsory insurance on private land.
- **Monitoring and enforcement costs.** This would involve monitoring the purchases of those vehicles now in scope and ensuring they were insured. Discussions with stakeholders suggest this may require multiple databases for each product monitoring the number of products

bought, who they were purchased by and whether they were ensured – similar to databases operated by the DVLA. Considering the number of vehicles likely to be in scope relative to the Road Traffic Act requirement (option 1), the additional costs and burden of developing and operating these databases is expected to be large and disproportionate. We intend to elicit, through consultation, views on the most effective means of enforcement and until we have a more developed policy on this issue, the nature of costs, and the identity of who they will fall to, cannot be fully assessed. In addition, there will need to an increase in policing costs to monitor vehicles to ensure they were insured and to take action against those that were not insured. Discussions, with police also suggest additional costs to familiarise themselves and understand the wider range of circumstances in which insurance will be compulsory.

- **Costs of prosecuting uninsured vehicles.** In addition to the high cost of enforcement, the lack of traceability of vehicles newly-in-scope, make it difficult to monitor and enforce insurance. As a result, there is likely to be a significantly higher proportion of uninsured users of vehicles newly-in-scope. Depending on the level of enforcement and how often uninsured users will be caught, the costs of prosecuting uninsured drivers is expected to increase adding to costs faced by the criminal justice system. The table below outlines the estimated costs to the criminal justice system (CJS) for each additional defendant proceeded against for the offences of driving and keeping a motor vehicle without insurance (summary only offences).

<u>Offence</u>	<u>Cost per additional defendant proceeded against</u> ¹¹¹²
Summary only offences	
Driving a motor vehicle without insurance	£400
Keeping a motor vehicle without insurance	£300

- It is also worth noting that claims made involving uninsured or untraceable drivers are made to the MIB, so therefore despite proceeding down the insurance route a significant proportion of claims could be dealt with by MIB if there is a high proportion of uninsured vehicles.
- **Cost of users of vehicles newly in scope.** In option 3, similar to option 2, users of vehicles newly in scope will be required to purchase insurance to cover their vehicles if they use the vehicle on public land (termed “land over which the public have access”) but unlike option 2, **not on private land to which the public do not have access.** This significantly reduces the scope of compulsory motor insurance and such reduces the impact on users, most notably in the motor sport sector.
- The table below provides an indicative rating for the number of vehicles and sectors that are in scope in option 3 in contrast to option 2. It also provides an indicative rating for size of premiums and prices response. While many are vehicle/sectors are low, they are considerably lower for option 3 compared with option 2.

¹¹ This includes CPS and HMCTS costs which are calculated on a per case basis.

¹² Rounded to the nearest £100 and in 2014/15 prices.

Vehicles/sectors	Number of vehicles	Vehicles in scope (option 2)	Vehicles in scope (option 3)	Premiums	Price response
Mobility scooters	High - up to 350,000	High	High	Low	Low
Electrically assisted pedal cycles	High - approx. 100,000	High	High	Medium	High
Motor sports	High - approx. 30,000 competition license holders and 5,000 motor sport events every year for 4-wheel sports and 23,000 license holders and 3000 events per year for 2-wheeled sports	High	Low	High	High
Segways	Low - no information on segways, but predicted to be low	Low	Low	Low	High
Quad bikes (off-road)	Low - no information on off-road quad bikes, but predicted to be low	Low	Low	Medium	High
Industrial vehicles	High - no information on industrial vehicles, but predicted to be high	Low	Low	Medium	Medium
Golf buggies	Medium - no information on golf buggies, but predicted to be medium	Medium	Low	Low	Medium
Children's toys (eg mini motorbikes and karts)	Low - no information on toys, but predicted to be low	Low	Low	Low	High
Fairground vehicles (eg dodgems)	Low - no information on fairground vehicles, but predicted to be low	Low	Low	Low	Medium
Agricultural vehicles	Low - no information on agricultural, but predicted to be low	Low	Low	Medium	Medium
Ride on lawnmowers	Low - no information on ride on lawnmowers, but predicted to be low	Low	Low	Low	High

Costs to business

The industries affected in option 3 are similar to those in option 2 to but to a lesser extent due to the narrow scope of cover to not include private land. The most notable difference is the fact that the motor sport sector would be largely outside scope of the Directive resulting in significantly lower cost to business compared to option 2.

Benefits

- The benefits of option 3 are similar to option 2 in that they both give victims of accidents a quicker, easier and cheaper route to compensation, therefore resulting in considerably lower transaction costs for society for pursuing such claims and reducing “bad” and reckless behaviour and encouraging “good” behaviour through insurance and insurance premiums.
- However, we would expect the overall benefits to be lower given the reduction in scope of cover relative to the baseline option 1 and option 2 with accidents involving motor vehicles that are now happening on private land not being covered; as such victims would not be able to claim under the terms of the Directive. However, we would expect this reduction in benefits to be quite small as victims could still bring a negligence claim in the civil courts.

5.7 Proportionality Approach

The Government is satisfied that the options being proposed are proportionate; they take account of our ongoing engagement with industry and would enable us to comply with EU law. We acknowledge that there are significant evidence gaps and areas of policy yet to be fully developed; and we intend to gather further evidence to fill those gaps and develop the policy through the consultation exercise.

5.8 Risk and Assumptions

For the baseline option (do nothing – option 1) we are assuming that domestic legislation remains untouched; in other words Government decides not to amend it in line with EU law as interpreted in the Vnuk judgment. The consequence of adopting this approach is that the MIB’s liability would remain as now – covering victims only of uninsured or untraced drivers who have an obligation to be insured under the RTA and NI Order; and victims of accidents involving uninsured vehicles now in scope of the Directive by virtue of the Vnuk judgment would continue to seek any desired redress through the civil courts.

There is a consideration that, in adopting this approach in the long-term, Government remains exposed to on-going risks associated with retaining domestic legislation that is not in line with EU law.

For options 2 and 3 we assume that no vehicles will be derogated; the consultation exercise will elicit views on establishing a rationale on which to base decisions about which types of vehicle to derogate.

For options 2 and 3 we assume that the existing levels of cover required under domestic legislation (which in the case of liability for personal injury is higher than that required by the Directive) will remain in place.

For option 3, we assume that the European Commission will amend the Directive in line with its high-level proposals published in June 2016.

6 One-In, Three-Out (OI3O) and the Business Impact Target (BIT)

This policy is not within scope of OI3O as it has been driven by a European ruling, the Vnuk judgment, which clarified the scope of the Motor Insurance Directive. For this reason the policy is also a Non Qualifying Regulatory Provision (NQR) and if the EANDCB can be quantified at final stage, it would not score against the BIT.

Our objective is to amend domestic legislation governing motor insurance to bring it in line with the Directive; preferably as amended by the Commission in line with its high-level proposals in June 2016. In doing so, we are following the EU transposition principles (referred to in section 4) and we do not intend to go beyond minimum EU requirements.

7 Wider Impacts

Equalities impact test

If we decide to impose a compulsory insurance requirement on the riders of mobility scooters then that will mean an additional cost on people with physical disabilities who are most likely to rely on these vehicles, for example people with multiple sclerosis, chronic fatigue or obesity; and the elderly who are the principal users of these vehicles. Those that choose now to avoid buying an insurance policy are taking a risk that they would be held liable for a substantial damages payment if they injured someone, but nonetheless if they are not derogated the users would have to have compulsory insurance. There is unlikely to be any significant difference as between options 2 and 3 as people who own mobility scooter users will inevitably use them on both public and private land.

The typical cost of an insurance policy currently for mobility scooters with third party liability is between £60 and £100 per year.

However, the costs of the measure for the elderly and the disabled are somewhat mitigated as it appears that a fair proportion of mobility scooters users already have an insurance policy in place because doing so enables them to make claims for theft or for personal injury or for damage arising from their own actions; we understand that a standard policy would include third party cover, though that is unlikely to meet the levels of liability required by the Directive. If Government decides that all vehicles must be included on a comprehensive database, vehicle owners would have to take time to inform the body keeping the database.

For all vehicle types it is possible that there could be a disproportionate cost burden on certain groups that insurers think are more likely to have an accident and therefore to whom they charge higher premiums. As comparatively inexperienced drivers, young people have tended to be the main group experiencing this effect.

Faith, gender, sexual orientation - Neutral, unlikely to be specific impact on people or groups on account of these protected characteristics.

Justice impact test

If, as a result of these proposals, the scope of the offence of using a vehicle without insurance is broadened to involve new types of vehicles, and the cost of motor insurance increases in a marked way, it is likely that more people will commit the offence of using a vehicle without insurance. (Indeed, it might also be the case that some people will inadvertently use their vehicle without insurance, if they are not aware of the fact they need insurance where previously it was optional.)

Any increase in unlawful activity could require additional operational police activity in terms of identifying offenders and deciding whether to issue a fixed penalty notice or refer the cases to the Crown Prosecution Service.

We have assessed the potential impact on the criminal justice system in terms of additional court costs per additional offender (rather than assessing the volume of additional offenders). We would also welcome evidence during the consultation as to the likely impact of the measure on enforcement including enforcement costs.

We are not proposing to establish any new offences. Rather the existing offence of “using a vehicle without insurance” will apply to people driving the newly in-scope vehicles (option 2 and 3) and potentially to newly-in-scope vehicles being driven on private land (option 2 only).

However, as discussed earlier, the proposals are likely to generate enforcement challenges, particularly under option 2 in the case of vehicles used on private land. This could have an adverse knock-on effect on Continuous Insurance Enforcement (CIE – the policy whereby vehicles must be insured when they are kept (as well as used) on roads or other public places); if drivers consider that compliance is not being

adequately enforced for newly in-scope vehicles it could reduce compliance by road-going motorists with the insurance requirements.

There could also be potential enforcement challenges in respect of unlicensed and/or under-age people driving certain vehicles in off-road situations. The consultation will seek views about how to deliver our policy objective of a proportionate, pragmatic and cost-effective enforcement regime.

Competition impact test

Most evidence suggests the UK insurance sector is competitive. In 2007 a report by the FSA said, “the focus on price by both consumers and providers is not an issue we would wish to change. The market for motor insurance works reasonably well in the interests of consumers”¹³. In 2014 the Competition and Markets Authority reported on measures it expects to further increase competition in the motor insurance market. They estimated that the value of the gross written premium (GWP) for private motor insurance was just over £10 billion in 2012, of which about 70% was accounted for by the ten largest motor insurers¹⁴. Industry data from 2014 concurs with this finding on private motor insurance, but suggests that commercial motor insurance is slightly less competitive with the ten largest insurers accounting for 90% of GWP.¹⁵

If, as expected, the average cost of motor insurance premiums increases as a result of these proposals, drivers will be looking for every opportunity to reduce their premiums – which means that they will be shopping around for the lowest premium – given the existing competitiveness of the market we would expect to see a reasonably fast and positive response from the insurance sector. Although some users might be encouraged to switch, others might remain inactive and, as result, would bear a disproportionate cost. Furthermore, there will be opportunities for insurers to innovate with policies which are tailored to some of the new types of vehicles which will require compulsory insurance. Overall this could lead to more competition within the market. Competition impacts are expected to be very similar for options 2 and 3.

Small and Micro Business Assessment

The principal effect on businesses from options 2 and 3 is for those businesses which own fleets of newly in-scope vehicles. We do not expect this to be disproportionate as the actual effect will depend on the number and type of newly-in-scope vehicles that such businesses use.

However, it is worth noting that the industries most affected by these changes such as agricultural, transport and storage and motorsport businesses are dominated by SMEs and are particularly likely to be affected by option 2. Approximately 87% of businesses in the “agriculture, forestry and fishing” sector are classified as small, with 9 or fewer employees.¹⁶ In “transport and storage” this figure is approximately 89%. Option 2 may therefore have consequences for a large, and disproportionate, number of small businesses. The effects are likely to be less pronounced with option 3 since agricultural and motorsport business are less likely to be affected by the compulsory insurance requirement under that option as they tend not use their vehicles on land over which the public has access. It is not considered desirable for us to exempt these SMEs; not only do we have an obligation to comply with the Directive, but doing so would largely undermine the objective of enabling more victims to have a route to compensation.

Small firms with vehicles which will be within scope of the Directive (for example, vehicles used in factories, farms or warehouses) will have to either buy insurance for the first time in respect of those vehicles; or arrange additional cover under existing policies which is consistent with the legal requirements for motor insurance.

All businesses with fleets will also have to establish new record-keeping processes such that an enforcement officer would be able readily to ascertain whether each and every vehicle is adequately insured. The person responsible for the administration of the fleet of vehicles will have to acquaint

¹³ FSA (2007) “ICOB Review Interim Report: consumer experience and outcomes in general insurance markets” p21

¹⁴ CMA (2014) Private motor insurance market investigation. Final report

¹⁵ ABI (2015, unpublished)

¹⁶ UKBAC, Enterprise/local units by Industry, Employment size band and Legal status, 2015 <http://www.ons.gov.uk/ons/data/dataset-finder>

themselves with the new requirements of ensuring that the insurance policies comply with the necessary legal requirements for motor insurance.

Proportionately these costs are likely to be larger for small firms, who are less able to absorb the increased administrative burden and additional insurance costs. Overall the insurance requirement might adversely, and disproportionately, affect the profit margins of small businesses compared with larger businesses which are able to spread their costs.

Greenhouse gases impact test

The predicted impact on greenhouse gas levels is neutral for options 2 and 3. Relatively few vehicles are in scope of the measure and we do not have enough evidence to suggest that there would be a significant change in driver behaviour or the number of motor vehicles being used.

Health and wellbeing impact test

Under options 2 and 3 there is a potential benefit for the health and wellbeing of victims of motoring accidents involving uninsured or untraced drivers; if they are able to claim compensation more readily, this is likely to have a beneficial effect on them and potentially on their recovery (if injured in the accident).

Human rights impact test

The proportionate approach of the Government's preferred option is expected to be compatible with the Convention rights as defined in the Human Rights Act 1998.

Rural proofing impact test

Families and individuals who live in rural areas tend to rely on private motor vehicles more than people who live in urban areas who have more ready access to public transport.¹⁷

Against this background, any increase in the cost of motor insurance from either option 2 or 3 might affect rural drivers and businesses more than their urban counterparts.

One of the most substantial areas of "private land" which will be affected by option 3 is farm land. Any agricultural vehicles which travel on the road will, of course, require third party insurance. However, there will be agricultural vehicles which are solely used on farms and never travel on roads. These vehicles will, as a result of these proposals, require compulsory third party insurance.

It may be the case that many of these agricultural vehicles used solely on farmland have some sort of cover for third party liabilities, for example employers liability to cover farm workers or public liability to cover other people who visit the farm. But the crucial point is that in future the vehicles must be covered in a way that is compliant with the requirements for motor insurance under the Directive. The same is likely to be true for other vehicles used commonly on farmland and other rural land such as quad bikes and ride-on lawnmowers.

There is also a possible impact on agricultural vehicles which have a dual function – they can travel from A to B; but they also act as machines (eg baling machines). Under option 2 farmers will have to ensure that the vehicles are adequately insured for all types of "use", however they are likely to fall out of scope under option 3 because they do not transport people or goods.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/276116/Transport_and_accessibility_to_services_January_2014.pdf

Family impact

The effect of the compulsory insurance requirement on families is expected to be neutral under options 2 and 3; there will be no disproportionate burden placed on families following the introduction of the measure.

8 Post Implementation Review (PIR)

We intend to carry out a review of the policy five years after it has been commenced.

Annex A

Current law and practice relating to motor insurance

General motor insurance obligations

(i) European legislation

Motor insurance is governed by a series of Directives, the most recent being 2009/103/EC¹⁸ (which consolidated a series of earlier directives in 2009). Directive 2009/103 states **“Each Member State shall... take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance....”**

The Directive defines “vehicle” as **“any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled.”**

Minimum level of third party liability cover

The Directive sets the minimum amounts to be covered by compulsory motor insurance: (i) in the case of personal injury, a minimum amount of cover of EUR 1m per victim or EUR 5m per claim (whatever the number of victims); and (ii) in the case of damage to property EUR 1m per claim, whatever the number of victims.

A Guarantee Fund

The Directive obliges Member States to set up a “Guarantee Fund” to provide compensation to victims of accidents caused by uninsured and untraced drivers. In the UK this function is provided by the Motor Insurers Bureau.

Derogations

The Directive permits Member States to derogate from the requirement for compulsory motor insurance vehicles belonging to certain specified persons/legal entities or certain types of vehicles. Where certain types of vehicles are derogated, Member States need to have in place **“the appropriate measures to ensure that compensation is paid in respect of any loss or injury caused in its territory and in the territory of other Member States by vehicles belonging to such persons”**. Where a person/legal entity is derogated, that person/entity is responsible for paying compensation (some persons may self-insure but there is no obligation to do so). Motor Insurers Bureau does not act as a fund of last resort where the person has been derogated. However, where types of vehicles are derogated, the Motor Insurers Bureau would be responsible for claims. The key point to bear in mind with derogations in respect of types of vehicles is that whilst the driver does not have to purchase an insurance policy, a derogation does not remove the obligation for compensation to be available.

Criteria for a Directive-compliant insurance policy

There is discussion in the main document about vehicles which already have a liability insurance policy in place, perhaps employers’ liability insurance or public liability insurance. It is important to note that the mere existence of third party cover for a vehicle is not sufficient to meet the requirements of the Directive.

In order for a policy to be compliant with the Directive a number of requirements must be in place, including the following:

- The policy must provide third party cover at least to the limits set in the Directive;

¹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009L0103>

- There must be a guarantee fund back up in place;
- The policy must cover third party liabilities when the vehicle is being used in any Member State;
- The insurer must have a claims representative in the injured party's own country.

(ii) GB legislation

The Road Traffic Act 1988 deals with motor insurance. Section 143(1)(a) provides that the use of a motor vehicle on a road or other public place must be covered by third party liability insurance.

Compulsory insurance or security against third-party risks

143 Users of motor vehicles to be insured or secured against third-party risks.

(1) Subject to the provisions of this Part of this Act—

(a) a person must not use a motor vehicle on a road or other public place unless there is in force in relation to the use of the vehicle by that person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act, and

(b) a person must not cause or permit any other person to use a motor vehicle on a road or other public place unless there is in force in relation to the use of the vehicle by that other person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act.

(2) If a person acts in contravention of subsection (1) above he is guilty of an offence.

Contravention of this requirement is an offence which can attract a fixed penalty fine of £300 and six penalty points; or if an offender is convicted in the magistrates court the maximum sanction is an unlimited fine and disqualification. Although often referred to as driving without insurance in fact the requirement relates to use of a vehicle, not driving.

Section 145 sets out requirements for insurance policies.

Section 185 defines "motor vehicle" as "*subject to section 20 of the Chronically Sick and Disabled Persons Act 1970 (which makes special provision about invalid carriages, within the meaning of that Act), a mechanically propelled vehicle intended or adapted for use on roads.*"

Minimum level of third party liability

The third party liability cover in GB legislation must be unlimited in relation to personal injury and a minimum of £1,000,000 for property damage (ie higher than the minimum amounts set in the Directive).

A Guarantee Fund

The Motor Insurers Bureau is the UK's Guarantee Fund for the purposes of the Directive. The Directive is in part implemented by Agreements between Motor Insurers Bureau and the Secretary of State for Transport – (i) The Uninsured Drivers Agreement; and (ii) The Untraced Drivers Agreement. The Motor Insurers Bureau also manages a database of all motor insurance policies, known as the Motor Insurance Database.

The Road Traffic Act 1988 provides that in order for a motor insurance policy to meet the statutory requirements it must be issued by an "authorised" insurer. This means that the insurer must be a member of the Motor Insurers Bureau. The Motor Insurers Bureau covers its costs by means of a levy on its members. Insurance companies' contributions are relative to the level of gross premium income derived from motor insurance.

(iii) Northern Ireland legislation

Part VIII of The Road Traffic (Northern Ireland) Order 1981 deals with insurance against third party liabilities. Article 90 (1) provides that the use of a motor vehicle on a road or other public place must be covered by third party liability insurance.

Users of motor vehicles to be insured or secured against third-party risks

90.—(1) Subject to the provisions of this Part, it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road or other public place unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third-party risks as complies with the requirements of this Part.

Contravention of this requirement is an offence under the Order, and the Road Traffic Offenders (Northern Ireland) Order 1996 sets out the punishment for this. The punishment is either a fixed penalty of £200 and six penalty points, or if prosecuted and subsequently convicted, a maximum £5000 fine, a discretionary disqualification and 6-8 penalty points.

Article 92 sets out requirements for insurance policies.

In Article 2(2), the interpretation section, “motor vehicle” is defined as a mechanically-propelled vehicle (not being a tramcar or other vehicle running on permanent rails, or a trolley vehicle) which is intended or adapted for use on roads.

Minimum level of third party liability

The third party liability cover must be unlimited in relation to personal injury and a minimum of £1,000,000 for property damage (ie higher than the minimum amounts set in the Directive).

A Guarantee Fund

As mentioned above, the Motor Insurers Bureau is the UK’s Guarantee Fund for the purposes of the Directive so it covers Northern Ireland as well as GB. The Directive is in part implemented by Agreements between Motor Insurers Bureau and the Department of the Environment – (i) The Uninsured Drivers Agreement; and (ii) The Untraced Drivers Agreement. The Motor Insurers Bureau’s database of all motor insurance policies – the Motor Insurance Database – also covers Northern Ireland.

The Road Traffic (Northern Ireland) Order 1981 provides that in order for a motor insurance policy to meet the statutory requirements it must be issued by an “authorised” insurer. This means that the insurer must be a member of the Motor Insurers Bureau. The Motor Insurers Bureau covers its costs by means of a levy on its members which is calculated by means of a formula and is relative to the level of gross premium income generated by the member.

Derogations in the UK

The UK has chosen to use the power in the Directive to derogate certain persons/legal entities from compulsory motor insurance. Where a derogation applies in respect of a person (a legal entity or an individual), the Motor Insurers Bureau does not act as the guarantee fund.

The UK does not currently derogate any categories of vehicle. The consequence of derogating a category of vehicle is that the guarantee fund would provide compensation to victims if there was no third party cover.

The Motor Insurers Bureau is currently permitted to seek recovery from the negligent driver of any compensation payments that it makes to victims and it is proposed that similar arrangements would apply in relation to such derogated vehicles.

Related issues

There are two more issues which are linked to domestic motor insurance legislation; any changes to the legislation could impact on them.

Continuous Insurance Enforcement

Driving without insurance has been an offence for many years. But keeping an uninsured vehicle has been established as an offence in GB more recently. Continuous Insurance Enforcement (CIE) is provided for under sections 144A – 144D of the Road Traffic Act 1988 (inserted by section 22(1) of the Road Safety Act 2006). CIE has operated since 2011 and identifies those vehicles being kept as potentially uninsured by

regularly comparing Driver and Vehicle Licensing Agency (DVLA) vehicle records against those held on the Motor Insurance Database. Those vehicles that appear not to be insured, and for which there is no valid Statutory Off -Road Notification (SORN) in force, will receive an Insurance Advisory Letter (IAL) from the Motor Insurers Bureau setting out the options the registered keeper must take to comply with CIE. Those who fail to do so will be issued with a Fixed Penalty Notice (FPN) by DVLA. Failure to respond to the FPN could result in prosecution at a Magistrates' Court. The main document refers to CIE in relation to potential enforcement options. (Continuous insurance enforcement does not apply in Northern Ireland.)

Statutory Off Road Notification (SORN)

The Road Vehicles (Statutory Off-Road Notification) Regulations 1997 (made under the Vehicle Excise and Registration Act 1994) allow the registered keeper of a vehicle to make a declaration to DVLA that they will not be using their vehicle on a public road or other public place. The declaration lasts indefinitely (ie until the vehicle is used on a public road). The main consequence of making a SORN declaration is that the vehicle is exempt from Vehicle Excise Duty. A secondary consequence of making a SORN declaration is that the vehicle is not subject to compulsory motor insurance - (Motor Vehicles (Insurance Requirements) Regulations 2011 (SI 2011/20)). If the owner chooses to insure a SORN'd vehicle that is a matter for them; the key point is that the vehicle does not have to be insured and it would not be subject to enforcement action under the Continuous Insurance Enforcement initiative. The main document refers to the potential impact of the proposed options on vehicles which are subject to SORN.

In Northern Ireland, Schedule 4 of The Road Vehicles (Registration and Licensing) Regulations 2002 allows the registered keeper of a vehicle to make a declaration to DVLA that they will not be using their vehicle on a public road or other public place. The declaration lasts indefinitely (ie until the vehicle is used on a public road). The main consequence of making a SORN declaration is that the vehicle is exempt from Vehicle Excise Duty.

Unlike GB, Northern Ireland does not have legislation in place to remove the requirement to produce evidence of motor insurance or comparable surety when applying for a vehicle excise licence. These legislative amendments would be introduced if CIE scheme were implemented in Northern Ireland.

Annex B

Judgment in the European Court of Justice (CJEU) – “the Vnuk Judgment”

The CJEU judgment in the case of Damijan Vnuk and Zararovalnica d.d. (C-162/13¹⁹) has significant implications for the UK's existing domestic legislation governing compulsory motor insurance.

Judgment on this reference from a Slovenian court was published on 4 September 2014. The case involved an accident on a farm in which Mr Vnuk was knocked off a ladder by a trailer, connected to a tractor, which was reversing into a barn. The Slovenian insurers had refused to pay Mr Vnuk's claim because the accident took place on private property and was therefore not covered by the compulsory insurance requirement. However, the CJEU ruled that the Directive covers “any use of a vehicle that is consistent with the normal function of that vehicle”.

The judgment constitutes a definitive clarification of EU legislation on motor insurance. The crucial point arising from the judgment is that third party cover must be in place in any circumstances where a vehicle is being used in a way that is consistent with the normal function of that vehicle.

There is no scope for appealing the judgment and Member States are obliged to implement the Directive consistently with the judgment by amending their domestic legislation. The fact that motor insurance is compulsory throughout Europe provides a convenient mechanism to provide compensation for a broad range of victims in a broad range of circumstances

The Government is disappointed with aspects of the judgment which present some serious challenges.

The clear implications of the judgment are that it indirectly brings more vehicles within scope of the Directive, as cover cannot be limited to public roads and other public places. Consequently, many more victims of motor vehicle accidents will have a route to claiming compensation. However, that benefit brings with it many challenges and an inevitable increase in costs.

As a result of the Vnuk judgment our legislation in respect of compulsory motor insurance is out of step with the Directive in 2 key areas:

- Firstly, the requirements for compulsory insurance only apply on roads or other public places. The judgment made it clear that the requirement for compulsory insurance applies if the use of a vehicle is consistent with the normal function of that vehicle. Therefore, the compulsory insurance requirement can no longer be limited to roads or other places to which the public has access.
- Secondly, that there is currently only a compulsory insurance requirement for vehicles intended or adapted for use on roads. As the normal function of a vehicle is not limited to roads and other public places, domestic legislation will have to be amended to reflect the Directive's much wider definition of vehicle and its use.

Consequently the scope of cover for vehicles already subject to the compulsory insurance requirement will be extended. There will also be a much broader range of vehicles which will have to either be covered by compulsory insurance or an alternative compensation scheme, in this case provided by the Motor Insurers Bureau.

¹⁹<http://curia.europa.eu/juris/document/document.jsf?docid=157341&mode=req&pageIndex=1&dir=&occ=first&part=1&text=&doclang=EN&cid=339654>

Annex C

Costs to the Criminal Justice System

Criminal Justice System

We are not proposing to introduce a new offence; rather we are simply proposing that the existing offences of using a vehicle without insurance and keeping a vehicle without insurance are extended to a wider range of vehicles and in a wider range of circumstances.

If, as expected, the changes lead to an increase in the cost of motor insurance and a consequential increase in the number of people failing to buy a policy, this will, in turn, have an impact on the criminal justice system.

It is not possible to calculate the effects with any degree of certainty at this stage because much will depend on securing more information (such as the volume of additional vehicles which will be in scope of the Directive); and how we deal with associated policy decisions (for example applying enforcement arrangements and any fixed penalty notice in a proportionate way according to the nature of the new vehicles that fall within scope).

Fixed penalty notices

It is possible for an offender to pay a fixed penalty notice for insurance offences instead of attending court (as described in Annex A). The statistics do not distinguish between FPNs for driving without insurance and keeping a vehicle without insurance, but the following table shows the total number of FPNs for “insurance offences” in England and Wales.

Calendar Year	Total FPNs
2011	24,035
2012	24,254
2013	21,061

Following consultation we will prepare assumptions about the likely effect on the number of fixed penalty notices generated by our proposals.

Prosecutions

The recent trend in the number of people prosecuted for, and convicted of, driving a vehicle without insurance [<http://www.legislation.gov.uk/ukpga/1988/52/section/143>] is a downward one:

	2011	2012	2013	2014	2015
Proceeded against	109,987	94,976	91,965	80,655	79,195
Found guilty	94,899	81,674	79,131	71,763	71,417
Average fine (£)	288	322	346	372	388

1. The number of defendants found guilty in a particular year may exceed the number proceeded against as the proceedings in the magistrates' court took place in an earlier year and the defendants were found guilty at the Crown Court in the following year; or the defendants were found guilty in the Crown Court of a different offence to that for which they were originally proceeded against in the magistrates' court.
2. The figures given in the table relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.
3. Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence,

care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

4. The number of offenders sentenced can differ from those found guilty as it may be the case that a defendant found guilty in a particular year, and committed for sentence at the Crown Court, may be sentenced in the following year.
5. Average fine is displayed in pounds and pence. Where there were less than five fines given as sentences, then the average is not shown, as there are not enough cases to provide a reliable estimate.

Source: Justice Statistics Analytical Services - Ministry of Justice.

This downward trend is reinforced by the Motor Insurers Bureau who say that claims made to them have been on a downward path for the last 10 years. However, they have recently started to rise; they attribute much of this increase to untraced driver claims.²⁰

Figures for prosecutions and convictions for 'driving with no insurance' 2011-2014 in Northern Ireland are set out in the table below:

	2011	2012	2013	2014	2015
Prosecutions	5,722	5,118	4,328	3,776	3,170
Convictions	5,359	4,869	4,075	3,579	2,973
Av monetary penalty	£262	£264	£262	£254	£250

The following should be noted:

1. Data are collected on the principal offence rule; only the most serious offence for which an offender is convicted is included.
2. The figures provided relate to prosecutions for all classifications of the offences specified.
3. Average monetary penalty based on instances where a monetary penalty was the main disposal.
4. Monetary penalties have been rounded.

²⁰ <http://www.mib.org.uk/media-centre/news/2015/september/mib-launches-new-uninsured-driving-campaign/>

We would welcome views to enable us to make an assumption about how many additional people will be prosecuted for, and convicted of, using a vehicle without insurance.

The offence of keeping (as opposed to using) a vehicle without insurance was only introduced in GB in 2011 [<http://www.legislation.gov.uk/ukpga/1988/52/section/144A>], so it is not surprising that the trend in prosecutions and convictions since then has been upward:

	2011	2012	2013	2014	2015
Proceeded against	27	11,808	41,304	63,570	72,615
Found guilty	11	9,075	31,250	46,172	51,719
Average fine (£)	118	184	189	180	186

1. The number of defendants found guilty in a particular year may exceed the number proceeded against as the proceedings in the magistrates' court took place in an earlier year and the defendants were found guilty at the Crown Court in the following year; or the defendants were found guilty in the Crown Court of a different offence to that for which they were originally proceeded against in the magistrates' court.
2. The figures given in the table relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.
3. Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.
4. The number of offenders sentenced can differ from those found guilty as it may be the case that a defendant found guilty in a particular year, and committed for sentence at the Crown Court, may be sentenced in the following year.
5. Average fine is displayed in pounds and pence. Where there were less than five fines given as sentences, then the average is not shown, as there are not enough cases to provide a reliable estimate.

Source: Justice Statistics Analytical Services - Ministry of Justice.

It should be borne in mind that the offence of keeping a vehicle without insurance has not been introduced in Northern Ireland.

Any increase in uninsured use of a vehicle or keeping an uninsured vehicle might create an additional cost to the criminal justice system. The table below shows the estimated costs to the criminal justice system (CJS) for each additional defendant proceeded against for the offences of driving and keeping a motor vehicle without insurance (summary only offences- please see the glossary in **Annex D** for a description of these terms and others, maximum sentence of a fine).

<u>Offence</u>	<u>Cost per additional defendant proceeded against</u> ²¹²²
Summary only offences	
Driving a motor vehicle without insurance	£400 ²³
Keeping a motor vehicle without insurance	£300

²¹ This includes CPS, HMCTS and Legal Aid costs which are calculated on a per case basis.

²² Rounded to the nearest £100.

²³ Figures might not add up due to rounding.

The table above illustrates an initial estimated cost per additional defendant proceeded against for each of the above offences. The cost provided is an estimated average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible).

Data for these insurance offences (2015)²⁴ and CJS agency costs²⁵) have been used to estimate the impact to the criminal justice system.

Estimated CJS costs per additional defendant proceeded against²⁶

Cost estimates have been produced using unit costs for different parts of the criminal justice system. There are some assumptions and caveats associated with these- See **Annex E** for a full outline of the assumptions and associate risks, and see below for a further breakdown of the costs to each CJS agency.

CPS and HMCTS

Prosecution costs to the CPS and court costs to HMCTS are higher in the Crown Court (CC) than the magistrates' court (MC). As both offences are summary only, it is only the magistrates' court costs that are relevant.

Costs to the CPS per case are estimated to be approximately as follows:

<i>Offence</i>	<i>CPS cost per case</i>
Summary only offences	
Driving a motor vehicle without insurance	£200
Keeping a motor vehicle without insurance	£200

Costs to HMCTS per case are estimated to be approximately as follows:

<i>Offence</i>	<i>HMCTS cost per case</i>
Summary only offences	
Driving a motor vehicle without insurance	£100
Keeping a motor vehicle without insurance	£100

²⁴ Data shows number of prosecutions, convictions and disposals given for each of the offences. It is also assumed that 100% of cases are heard in the magistrates' court as both offences are summary only.

²⁵ HMCTS costs are in 2015/16 prices, CPS costs in 2014/15 prices.

²⁶ Costs under £100 have been rounded to the nearest £10 whilst costs of £100 and over have been rounded to the nearest £100. All costs are in 2014/15 prices. The costs below may not sum to the total CJS costs per defendant because of the rounding convention used.

Legal Aid (LA) Costs

LA eligibility and costs also differ in the MC and CC; typically a higher proportion of defendants are eligible in the CC where costs are also higher.²⁷ As both offences are summary only, it is only the magistrates' court costs that are relevant.

It is assumed for the offence of driving a motor vehicle without insurance that the eligibility rate in the magistrates' court is approximately 10%. This is because this offence can attract penalty points upon conviction, thus potentially making it slightly more likely that a defendant would pass the interests of justice test.

It is assumed for the offence of keeping a motor vehicle without insurance that the eligibility rate is 0% as it does not attract penalty points upon conviction, thus making it unlikely that a defendant would pass the interests of justice test.

Costs to the Legal Aid Agency (LAA) are estimated to be approximately as follows:

<u>Offence</u>	<u>Legal aid cost per additional defendant proceeded against</u>
Summary only offences	
Driving a motor vehicle without insurance	£50
Keeping a motor vehicle without insurance	£0

Prison and Probation (NOMS) costs

There are no prison or probation costs as the maximum sentence for both of the offences is a fine.

Fines and other financial impositions

For the purposes of disaggregating by offence type, it is currently not possible to calculate the income received from financial impositions or the cost of enforcing them. This is due to the way that HMCTS currently collects data.

²⁷ Legal Aid eligibility in the magistrates' court is dependent on a defendant passing the interests of justice test, and a means test. For more information, see: <https://www.gov.uk/legal-aid/eligibility>

Annex D

Glossary of Criminal Justice System terminology

Cost per defendant: The cost per defendant is a cost per person proceeded against. It is a weighted cost that accounts for the proportion of defendants tried in the magistrates' and Crown Court, the proportion of offenders sentenced to each disposal and the average time those sentenced to a custodial sentence spend in prison. It tells you the average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible).

Criminal Justice System: The CJS encompasses the Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunals Service (HMCTS), the Legal Aid Agency (LAA) and HM Prison and Probation Services.

Crown Court: Deals with the more serious, triable either way or indictable cases, for example murder, rape and serious fraud/theft. In the Crown Court, whether the defendant is found guilty or not guilty is decided by a jury.

Disposal: The end result of a trial at court. In this publication the disposals of interest are sentences, but other disposals are possible, for example where there is no finding of guilt and the defendant is acquitted.

Indictable Only Offence: An offence that is triable only in the Crown Court; all proceedings will start in the magistrates' court but will be sent straight for trial in the Crown Court.

Magistrates' Court: Magistrates cannot normally order sentences of imprisonment that exceed six months (or 12 months for consecutive sentences), or fines exceeding £5,000. The magistrates' court deals with summary only offences. Some cases are triable-either-way in either magistrates' courts or the Crown Court.

Proceeding: The start of legal action brought against somebody charged with committing a criminal offence.

Summary Only Offence: An offence that is triable only in the magistrates' court; all proceedings will start and end in the magistrates' court.

Triable Either Way Offence: An offence that is triable in either the magistrates' court or Crown Court. Some proceedings will start and end in the magistrates' court whereas others will start in the magistrates' court but end in the Crown Court. In triable either way cases, defendants can elect to stand trial in the Crown Court or they can be sent for trial in the Crown Court because the offence is deemed serious enough.

Annex E

CJS Cost assumptions

<p>CPS costs, advocacy costs: The estimated CPS costs consist of two broad categories, advocacy costs and Activity Based Costings (ABC). The primary purpose of the ABC model is resource distribution, and has several limitations (see risks).</p> <p><i>Source: CPS 2014; MoJ internal analysis, 2015.</i></p>	<p>The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated.</p>
<p>HMCTS costs (magistrates' court):</p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrates' court costs are £1,200 per sitting day. A sitting day is assumed to be five hours. The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2014-15, HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process. The costs are in 2015/16 prices and have been updated using the GDP deflator.</p>	<p>Timings data for offence categories:</p> <p>The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a District Judge (magistrates' court) sits.</p> <p>The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a DJ(MC) sits.</p> <p>Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information available on admin time, however we have excluded it for simplicity.</p> <p>The timings are collection of data from February 2009. Any difference in these timings could influence costings.</p> <p>The timings data also excludes any adjournments (although the HMCTS ABC model does include them), and is based on a case going through either one guilty plea trial (no trial) or one effective (not guilty plea) trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates.</p> <p>Guilty plea proportions at the Initial hearing from Q2 in 2012 are used,</p>

	<p>based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing).</p> <p>HMCTS average costs per sitting day:</p> <p>HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</p>
<p>Legal Aid Costs:</p> <p>Cases in the magistrates' court</p> <p>It is assumed for the offence of driving a motor vehicle without insurance that the eligibility rate in the magistrates' court is approximately 10%. This is because this offence can attract penalty points upon conviction, thus potentially making it slightly more likely that a defendant would pass the interests of justice test.</p> <p>It is assumed for the offence of keeping a motor vehicle without insurance that the eligibility rate is 0% as it does not attract penalty points upon conviction, thus making it unlikely that a defendant would pass the interests of justice test.</p> <p>The average cost per case is £400 and assumes that there is one defendant per case. This is based on the legal aid statistics (2013/14), and is calculated by dividing total case value by total case volume.</p> <p><i>Source:</i> https://www.gov.uk/government/collections/legal-aid-statistics</p>	<p>Magistrates' court</p> <p>Variance in the legal aid eligibility rate assumed for cases in the magistrates' courts would impact the costings.</p> <p>More than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.</p>