

 Regulatory Policy Committee	Validation of the One-in, Two-out Status and the Net Direct Impact on Business	
Validation Impact Assessment (IA)	Third Parties (Rights Against Insurers) Act 2010 – correction and commencement	
Lead Department/Agency	Ministry of Justice	
IA Number	Not Provided	
Origin	Domestic	
Expected date of implementation (and SNR number)	October 2014 (SNR 8)	
Date of Regulatory Triage Confirmation	07/11/2012	
Date submitted to RPC	26/09/2013	
Date of RPC Validation	22/10/2013	
RPC reference	RPC12-FT-MOJ-1616(2)	
Departmental Assessment		
One-in, Two-out status	Zero Net Cost	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	£0	
RPC assessment	VALIDATED	
Background (extracts from EANCB Note)		
“Summary of proposals		
<p><i>Before 1930 where an individual or company (A) caused another (B) to suffer an injury or loss, B could sue A for damages. If A was or became insolvent, B would have become one of A’s creditors. Any insurance money that A might have been able to claim to meet the liability would have formed part of the general assets to be shared among all the creditors.</i></p>		
<p><i>Since 1930, as a result of legislation passed in that year (“the 1930 legislation”)¹, A’s rights against A’s insurer relating to the loss or injury could be transferred to B. In which case B could then sue A’s insurer and receive their damages free of the claims of any of A’s other creditors.</i></p>		
<p><i>The main problem for users of the 1930 legislation is that dissolved companies (A) sometimes need to be restored to the Register of Companies so that a third party, such as B, can establish the company’s liability and proceed against the insurer. This process of restoration is expensive and time consuming.</i></p>		
<p><i>These problems were largely addressed by the Third Parties (Rights against Insurers) Act 2010 (“the 2010 Act”), which has not yet been commenced. However by error the 2010 Act omitted to include all types of insolvency covered by the 1930 legislation. The reform in question is to amend the 2010 Act to include the omitted</i></p>		

¹ Third Parties (Rights against Insurers) Act 1930, which extends to England, Wales and Scotland, and Third Parties (Rights against Insurers) Act (Northern Ireland) 1930.

types of insolvency and to commence it.

Overall assessment of business impact

Insurers and claimants (who could be businesses as well as individuals) would benefit from lower administration costs associated with a simpler, quicker and easier to understand process for resolving third party claims against insurers: in particular, one set of legal proceedings would replace two. Case outcomes would remain the same, cases would simply be resolved more quickly with less resource.

Anecdotal information from the Association of British Insurers (ABI) suggests that there are around 150 to 300 restoration actions brought each year in third party claims against insurers and the average cost of restoring a company to the register is £1250 - £2000 per restoration case. This suggests that annual benefits in the region of £0.2 million to £0.6 million per year.

The costs of resolving a claim are normally passed to the losing party, i.e. the defendant insurer. These savings would therefore accrue to defendant insurers. On the other hand defendant insurers may settle claims more quickly than in the past, which may generate cash flow costs for them.

OITO assessment and EANCB assessment

Where businesses are claimants they would benefit from the proposals. They would receive a settlement more quickly, generating cash flow benefits. They may also gain in cash flow terms if the costs of resolving a claim are lower (as they initially meet these costs and then recover them from losing defendants). It has not been possible to monetise these cash flow benefits.

Where businesses are defendants, which are settling claims for damages relating to injury or loss, they would be classed as 'non-compliant'. Any costs or benefits to such bodies would therefore not feature in the OITO calculation. As such the overall IOTO impact has been assessed as ZERO NET COST. In summary the benefits to businesses cannot be monetised. There are no costs to compliant businesses. The EANCB is assessed as 0."

RPC comments

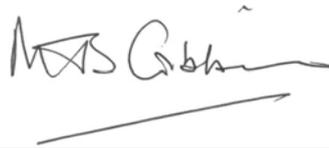
Impact on non-compliant businesses. The view of the Committee based on the evidence presented in the Department's earlier RTA was that the proposal may fall within the scope of OITO. The Department is proposing to make corrections to existing legislation to include omitted types of insolvency that were previously missed off the Third Parties (Rights against Insurers) Act 2010. The aim of the Act is "...to remove the identified unnecessary and burdensome processes for third parties and insurers without affecting case outcomes. The proposals will simplify the law and should benefit everyone involved in claims...".

The Department explains in its EANCB validation documentation that the costs of the proposal will initially fall on businesses, as defendants, as a result of non-compliant activity. The associated costs of such non-compliant activity would then be passed through to insurance companies – a transfer – and would therefore be out of scope. However, some benefits would accrue

directly to business as claimants from a less costly and quicker claims process.

As the policy is a regulatory measure that is net beneficial to business it should be classified as Zero Net Cost, in line with the Better Regulation Framework Manual (Paragraph 1.9.12).

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons". The signature is written in a cursive style with a long horizontal stroke at the end.

Michael Gibbons, Chairman