

Regulatory Policy Committee		Opinion	
Impact Assessment (IA)		Insurance contract law: updating the Marine Insurance Act 1960	
Lead Department/Agency		Law Commission / HM Treasury	
Stage		Final	
IA number		LAWCOM0031	
Origin		Domestic	
Expected date of implementation		April 2015 (SNR 9)	
Date submitted to RPC		26 August 2014	
RPC Opinion date and reference		10 September 2014	RPC14-HMT-2149(2)
Departmental Assessment			
One-in, Two-out status		OUT	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)		-£8.8 million	
RPC Overall Assessment		GREEN	
RPC comments			
<p>The IA is fit for purpose. Following our previous opinion of 1 August 2014, the IA now provides better justification for the assumptions used. The additional information better supports the Department’s assessment that the assumptions used are the most appropriate based on the available evidence.</p> <p>The RPC is able to validate the estimated annual benefit to business of £8.8 million. As a result of changes to the IA following our previous opinion, this has been revised from £9.6 million.</p>			
Background (extracts from IA)			
What is the problem under consideration? Why is government intervention necessary?			
<p><i>“The efficient operation of the UK insurance market is constrained in the areas of (1) the policyholder’s duty of disclosure (2) the onerous effect of insurance warranties and (3) the treatment of fraudulent claims. The default rules currently set in statute no longer meet industry expectations. They lead to increased transaction costs and disputes, and threaten to undermine the UK’s position in the global insurance market.</i></p> <p><i>Leaving these matters to industry self-regulation, as at present, creates an uncertain playing field where insurers may elect whether or not to enforce their strict legal rights. The existing default rules have been codified in statute, so they can only be changed by another statute.”</i></p>			
What are the policy objectives and the intended effects?			

“The objective is to update the default regime for insurance contract law, by removing rules which no longer reflect good commercial practice. The default regime is designed to meet the needs of the parties in the great majority of insurance contracts, but does not impede freedom of contract for commercial parties.

The intended effect is to reduce transaction costs and disputes, while encouraging a well-functioning insurance market which allows for competition and choice, improving confidence in the industry.”

Comments on the robustness of the OITO assessment

The IA says that this is a deregulatory proposal (an ‘OUT’) with an estimated equivalent annual net cost to business (EANCB) of -£8.8 million. The assessment of the likely direction of impacts is consistent with the current Better Regulation Framework Manual (paragraph 1.9.11). Based on the evidence presented, the RPC is able to validate the estimated impact as robust.

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

The proposals reduce the scope of regulation on business. A SaMBA is, therefore, not required. The IA does, however, describe the potential impacts on small and micro-businesses of each element of the proposal. This analysis suggests that such businesses will not experience any disproportionate costs as a result of being included within the legislation.

Quality of the analysis and evidence presented in the IA

The proposal will recast existing insurance legislation to:

- Clarify duties of disclosure;
- Amend the effects of warranty breaches on insurer liability; and
- Reduce liabilities for insurers subject to fraudulent claims.

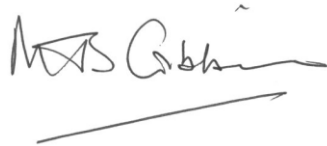
The Department expects insurers to incur transitional costs relating to new documentation and training, and additional ongoing costs from more cases being taken to appeal courts on new points of law. The Department expects policyholders, all of whom are likely to be businesses, to benefit from reduced time in preparing for insurance purchases (£1.9 million each year), and insurers and policyholders to benefit from fewer disputes (£5.4 million each year). Insurers are also expected to benefit as they will “*have no liability to pay any part of the fraudulent claim*”, which will result in reduced overall liabilities from claims (£5.3 million each year).

Our previous opinion raised concerns that the IA did not justify adequately its assumptions, for example in estimating the transition costs or the extent to which senior staff could delegate tasks. The opinion also highlighted that the IA did not justify the salary uplift used.

The revised IA responds to these concerns by providing further evidence or explanatory examples of what the changes could mean in practice. Where the Department has not been able to develop robust quantitative evidence to support its assumptions, the IA explains how the Department has tested those assumptions with key stakeholders. As a result, they appear to represent the best estimates of the likely impacts.

The IA explains that familiarisation costs will be limited, because the proposed changes in the law will ensure it is more closely aligned with usual practice in the industry. The IA draws on experience of the transitional training costs of comparable changes (the implementation of the Consumer Insurance (Disclosure and Representations) Act 2012) to provide further evidence for the expected costs associated with the updating of training courses. The Department also now provides a clear summary of how it has calculated the transitional costs for the specialist sector. Following these changes, the assessment of the expected transitional costs is much clearer.

Signed

A handwritten signature in black ink, appearing to read 'Michael Gibbons', with a long horizontal line extending from the end of the signature.

Michael Gibbons, Chairman