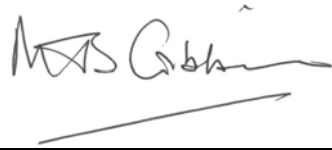
 <b>Regulatory Policy Committee</b>	<b>OPINION</b>	
<b>Impact Assessment (IA)</b>	Revision of the Scheme for Construction Contracts (England and Wales) Regulations 1998 Construction Contracts (England) Exclusion Order 2011	
<b>Lead Department/Agency</b>	Department for Business, Innovation and Skills	
<b>Stage</b>	Final	
<b>Origin</b>	Domestic	
<b>Date submitted to RPC</b>	16/05/2011	
<b>RPC Opinion date and reference</b>	10/06/2011	RPC11-BIS-0941
<b>Overall Assessment</b>	<b>AMBER</b>	
<p>The IA is fit for purpose. The IA provides an adequate assessment of the likely impacts of the measures that will be introduced by both the secondary and primary legislation. However, the IA should better explain why the benefits introduced in the primary legislation, for which a separate IA was done in 2008, is claimed again in the current proposal.</p>		
<p><b>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</b></p>		
<p><i>Primary vs Secondary legislation.</i> The IA appears to be assessing the impacts of all measures introduced by both the primary and secondary legislation. A separate IA was produced for the 2008 primary legislation, which appears to have claimed some of the benefits claimed in the current IA. The RPC understands that the measures introduced in the primary legislation have not yet commenced and are directly linked to the proposed changes to this secondary legislation. Whilst the Department has confirmed that the secondary and primary legislation should be seen as a single package, the IA should explain this and indicate if the IA for the primary legislation will be amended appropriately. Furthermore, clarification as to why the measures introduced in the 2009 Act cannot be implemented without the secondary legislation should also be provided.</p>		
<p><i>Cost and Benefits:</i> The IA states that commercial disputes (costs of adjudications) between contractors and sub-contractors have a financial cost of around £35m per annum. At the same time the IA says the proposal will produce an annual benefit of £31.5m. This appears to be suggesting that the proposed streamlining measures, will remove most of the costs of adjudications, which appears questionable. The IA would benefit from clarifying that these two figures (£35m and £31.5m) are not directly comparable, because only some parts of the anticipated benefits (31.5m) are savings from streamlining the adjudication processes.</p>		
<p><i>Impacts on contractors and sub-contractors.</i> The IA says the proposal will produce substantial benefits for the industry, particularly for small and micro firms in the construction supply chains. The IA would benefit from providing some discussion of the likely impact of these proposals on larger companies.</p>		

**Have the necessary burden reductions required by One-in, One-out been identified and are they robust?**

The IA claims an OUT of £30 million in Equivalent Annual Cost to Business terms (£1.5 million costs and £31.5 million benefits). Based on the evidence provided, this appears to be a reasonable assessment of the likely impact of the proposal.

**Signed**

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

**Michael Gibbons, Chairman**