Regulatory Policy Committee

The costs and benefits of regulatory proposals – May 2015 to February 2016

March 2016

Executive summary

The Regulatory Policy Committee's independent role at the heart of the regulatory system provides an opportunity to develop insight on themes and trends across the government's regulatory programme and the supporting evidence. This is rooted in the expert scrutiny of individual measures, a role that enables the RPC to take a view across a wide range of government regulatory activity.

For measures scrutinised[1] to the end of February 2016 and coming into force this parliament:

- The RPC has scrutinised and validated the net costs of 109 measures. A complete list[2] of these measures can be found on the RPC website. Of these, the RPC has confirmed that 79 count towards the government's £10 billion deregulation target. Of all measures, the five most significant measures account for 85% of the total estimated impacts validated to date.

- The two largest regulatory changes for business and civil society organisations that the RPC has scrutinised relate to the regulation of the labour market:

    - the introduction of the first stage of the **national living wage** – a £821 million direct cost to business in the first year, mostly in the form of higher wage costs; and

    - the £665 million annual cost imposed by the **uprating of the national minimum wage** in 2015.

- For changes that directly benefit business, the most significant measures scrutinised by the RPC include: the **plastic carrier bags 5p charge** (£203 million each year), and **speeding up cheque payments** (£100 million each year). Both of these changes were legislation from the last parliament but will come into force this parliament. While

[1] This includes measures that were initially scrutinised in the previous parliament but for which the RPC has needed to validate a 'rebased' number to ensure the estimated impacts of those measures are comparable with measures scrutinised in line with the new better regulation framework.

[2] https://www.gov.uk/government/publications/costs-and-benefits-of-new-regulation-regulatory-policy-committee-opinions-since-may-2015/costs-and-benefits-of-new-regulation

the change to cheque payments is deregulatory, the plastic bags charge is new regulation that results in a direct benefit to business. Businesses will benefit through additional revenue from consumers and reducing costs associated with carrier bags. We note that businesses are expected to pass the additional revenue to charities, and therefore in practice a large part of the validated benefits will accrue to charities.

- Two of the more significant domestic regulatory measures impose moderately large costs on business by banning sales or advertising of harmful substances – £48 million each year from requiring **standardised tobacco packaging**, and £26 million each year from **banning the sale of psychoactive substances**. The government legislated for standardised tobacco packaging in the previous parliament, although the regulations will not come into force until May 2016. As with all the changes scrutinised under the previous better regulation framework but that come into force this parliament, the RPC has revisited the submitted IAs to ensure the figures are reported in a manner that is comparable with those scrutinised under the new framework.

- The RPC has confirmed the net direct costs of three significant regulatory measures that derive from international agreements or the EU: **company registers for persons with significant control** (international origin, £109 million each year), **amendments to the environmental permitting guidance on waste incineration (small waste oil burners)** (EU origin, £27.3 million each year) and **implementation of the Directive on the safety of oil and gas operations and on updating UK oil and gas legislation** (EU origin, £22.5 million each year).

Introduction

1. This publication collates information on the measures scrutinised to date that have, or are expected to, come into force during this parliament.

2. The RPC provides the government with external, independent scrutiny of new regulatory and deregulatory proposals. This includes rating the quality of evidence and analysis supporting new regulatory and deregulatory proposals, and checking the estimates for the equivalent annual net cost to business of new regulations. This helps ensure the government's decisions are based on a robust, evidence-based policy making process. As part of its scrutiny function the RPC considers the extent to which proposed regulations are supported by a sound rationale for intervention, consideration of alternative approaches, a clear understanding of the impacts of regulation on business, and a consideration of the impacts on small and micro businesses. Our subsequent published updates will include further analysis of the evidence relating to these elements of our scrutiny.

3. Throughout this parliament, the RPC was appointed by the Government in July 2015 to act as the independent verification body as set out in the Small Business, Enterprise and Employment Act 2015. In this role the RPC is required to verify the costs and benefits to business and civil society organisations of regulatory provisions. Part of this process includes providing the definitive statement on whether measures will count towards the government's business impact target, or not. In line with the legislative requirements, measures that will be included in the target are known as qualifying regulatory provisions. Measures that concern the regulation of business or civil society organisations but which are subject to an exemption or exclusion from the business impact target are known as non-qualifying regulatory provisions. We will continue to work with the government in relation to the publication of the government's statutory reports. The first annual report is expected to be published by the Government one year after the start of the Parliament.

4. The RPC's scrutiny function covers a wide range of regulatory proposals put forward by Government departments. It is not restricted to measures that are in scope of the Government's business impact target. The data presented here covers 109 measures of which:

    - 79 are confirmed by the RPC as qualifying regulatory provisions (including one provision with qualifying and non-qualifying elements);
    - 25 are non-qualifying regulatory provisions; and

- 5 are considered by the government not to be regulatory provisions in line the Small Business, Enterprise and Employment Act 2015.

5. The information presented here is not intended to be, and should not be viewed as, an account of the government's progress towards achieving the business impact target. Indeed, much of the RPC's important scrutiny activity concerns measures that are not in scope of the business impact target. While the qualifying regulatory provisions validated to date will count toward the business impact target, they represent a fraction of the total number of measures that are likely to count towards the business impact target by the end of the Parliament.

6. This update provides a discussion of the proposals that have the largest impacts on businesses and civil society organisations. This highlights the relative significance of a small number of large scale measures.

7. The information presented here will form the basis of our regular reporting. To support our aim of increasing transparency, we would welcome feedback and comment from stakeholders on other evidence they would find beneficial in future publications.

Volume of measures

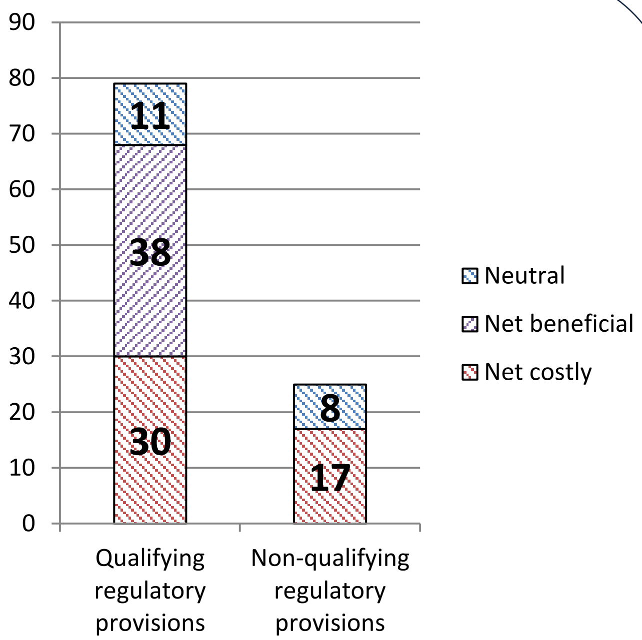
8. In this parliament, up until the end of February, the RPC has scrutinised and verified the impacts of:

79 qualifying regulatory provisions
Of these:

- 38 are net beneficial;
- 30 are net costly; and
- 11 are net neutral / non-monetised (considered zero for reporting purposes).

25 non-qualifying regulatory provisions[3]
Of these:

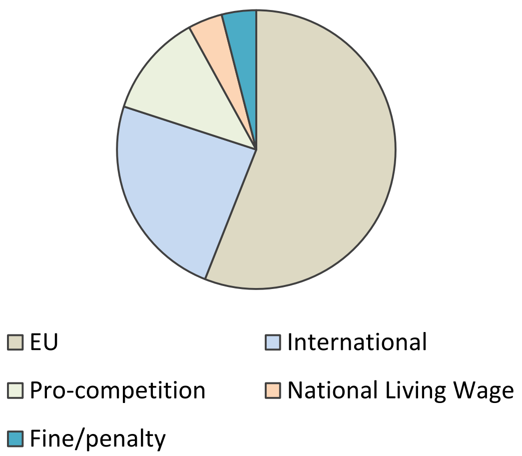
- 17 are net costly to business (including 2 pro-competition measures);
- 8 are net neutral / non-monetised;



Graph 1 – volumes of regulatory provisions

The 25 non-qualifying regulatory provisions comprised:

- 14 originating from the EU;
- six originating from international obligations;
- three pro-competition measures;
- one is the national living wage; and
- one is a fine/penalty.



Graph 2 – distribution of non-qualifying reasons

[3] This does not include the significant non-qualifying regulatory provisions aspects of the national minimum wage uprating. As this measure included aspects that are considered qualifying it is treated as a qualifying regulatory provision for volume purposes.

9. The RPC also has a role in relation to the scrutiny of fees and charges and certain other measures that relate to the regulation of business or civil society organisations when providing public services. The Small Business, Enterprise and Employment Act 2015 defines these measures as not being regulatory provisions and, as such, they are not captured by the discussion above. So far we have validated the impact of five such measures.

Impacts – costs and benefits

10. A significant proportion of these changes relate to measures seen initially by the RPC during the previous parliament, but that will come into force during this parliament. For such measures the RPC has revisited the validated figures to ensure they are calculated in a way which makes them directly comparable[4].

11. Although still at an early stage in this parliament we note, as in the previous parliament:

    - **A small number of large measures contribute the majority of the estimated costs and benefits**. Of the gross impacts validated so far the five largest measures contribute 85% of the gross costs and benefits.

    - **Measures outside the scope of the business impact target in general impose net costs on business**. None of the measures confirmed as non-qualifying regulatory provisions have been validated as having a direct net benefit to business.

12. The government has amended the better regulation framework in a number of ways since the previous parliament. For example, the scope of the business impact target has been extended significantly to cover regulators. The effect of those changes will only become clear over the coming year.

13. Some other changes, however, have already had an effect on the distribution of measures. In seeking to ensure that the business impact target better reflects how businesses experience beneficial new regulation **the framework now allows new regulation that is beneficial to business to be counted in the same way as**

[4] This process has required the estimated equivalent annual net cost to business for some proposals to be 'rebased' so they are presented in a 2014 price base year and relevant present value year for implementation, in line with the current better regulation framework and to ensure comparability with measures from this parliament. As a result, some figures in published impact assessments and RPC opinions will differ from the figures presented here and which will be used to inform the business impact target.

deregulation. This has a notable effect on some individual cases, such as the plastic carrier bags charge.

- The measure with the largest direct benefit for business, the plastic carrier bags charge, is new regulation with a direct benefit to business. This will contribute £203 million of direct benefits to business under the business impact target, which would not have scored under the previous framework. These benefits represent the expected direct impacts – most of the additional revenue from the charge will be passed through to charities, but as this is not a requirement of the regulation it cannot be considered a direct effect of the proposal. However, the extent to which this reduces the benefit to business will be entirely offset by a corresponding benefit to charities.

Net costly new regulation

National living wage[5]

Net cost to business of £821 million in the first year, Government has decided to make this a non-qualifying regulatory provision through a specific exclusion from the business impact target[6]*.*

The proposal will introduce, from April 2016, a national living wage into the existing national minimum wage framework. Initially, this will be set at £7.20 per hour and will apply to those aged 25 years and over. Including costs to public sector employers, the total cost of the proposal is £1,139 million. This consists of £835.6 million direct labour cost, £280.5 million wage spillover effect, and £22.6 million transition costs.

The main impact of the proposal on businesses will be the cost of raising the pay of their affected employees to the national living wage. The Department for Business, Innovation and Skills estimates that approximately 1.7 million employees in the private sector will be affected, and that this will cost £804.4 million in the first year, consisting of £672 million in wages and £132.4million in associated non-wage labour costs, such as employers' National Insurance contributions.

There will also be 'wage spillover' effects, whereby the wages of employees earning above £7.20 per hour also rise due to employers maintaining wage differentials between workers.

[5] National Living Wage, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484132/RPC-3140_1_-BIS_-_NLW_-_revised_IA_f___-_opinion.pdf

[6] Business impact target, written ministerial statement, http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-03-03/HCWS574/

The Department estimates, using Low Pay Commission (LPC) evidence and the Annual Survey of Hours and Earnings wage distribution data, that this will cost £234.3 million. The majority of this cost is indirect because it results from the discretionary choice of employers to go beyond the requirements of the regulations. Using the proportion of private sector workers covered by collective pay agreements (15.4 per cent), the Department estimates that £37.7 million of the £234.3 million is a direct cost to business.

National minimum wage – apprenticeships[7]

Net cost to business of £38.8 million in the first year considered as a qualifying regulatory provision as a result of going beyond the Low Pay Commission recommendations; and £626 million considered as a non-qualifying regulatory provision as a result of uplifts in line with the Low Pay Commission recommendations[8]*.*

The national minimum wage (NMW) is a statutory pay floor that provides protection to low-paid workers. The NMW came into force in April 1999 and, since then, NMW rates have been reviewed annually by the Low Pay Commission (LPC). The Government's proposal uprates the adult rate, the development rate and the 16-17-year old rate in line with the LPC's recommendations. The Government is proposing to increase the rate for apprentices by 20.9% to £3.30 per hour, well in excess of the LPC's recommendation of £2.80. The new rates took effect on 1 October 2015.

Using data from the 2014 Annual Survey of Hours and Earnings (ASHE), the Department estimates the number of employees paid at or below the new NMWs to be about 2.4 million. Of this, 2.2 million are covered by the adult rate and 75,000 by the apprentice rate. This gives an overall cost of the proposal to employers of £738 million, with the benefits accruing to employees (£628.5 million) and the Exchequer (£109.5 million). The latter comes from aspects such as increased employers' national insurance contributions.

For the assessment of the contribution to the business impact target, the figures are adjusted by the proportion of employees affected who work in the private sector. This gives a total cost to the private sector of £665 million, of which nearly 5% is accounted for by the increase in the apprentice rate over and above the LPC's recommendation.

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[7] National minimum wage – apprenticeships, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454011/2015-07-09-RPC15-BIS-2382___Amendments_to_National_Minimum_Wage_rates_201....pdf

[8] Business impact target, written ministerial statement, http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-03-03/HCWS574/

Standardised packaging of tobacco products[9]

Net cost to business £48.4 million, qualifying regulatory provision.

The proposal will standardise tobacco packaging as part of the aim of improving public health. The measure will impose a cost on business as the reduction in branding will reduce profits as a result of lower tobacco sales and down-trading. This will be partially offset by the benefits of lower production costs associated with standardised packaging.

Overall, the proposals impose a cost on UK-based businesses of £430 million (present value over ten years). This is partially offset by a saving of £28 million in packaging costs. This leads to an estimated equivalent annual net cost to business of £48.4 million in 2014 prices.

Psychoactive substances bill[10]

Net cost to business £25.7 million, qualifying regulatory provision.

The proposal will introduce a general ban on the sale, import, export and production of products with psychoactive effects. Legitimate and currently lawful uses will be exempt from the ban (for example in relation to substances such as alcohol or caffeine, or for medical uses of other substances).

The department estimates that the proposal will affect 335 'head-shops' (retailers specialising in products with psychoactive effects) and 115 online sellers (including a small number of importers). The department's assessment is that no psychoactive substances that will be banned are currently manufactured in the UK. On average, the department estimates that the ban will result in around £75,000 lost profit on average for each business each year, based on departmental calculations of average sales revenues for psychoactive substances. This results in an equivalent annual net cost to business of £25.7 million.

[9] Standardised packaging of tobacco products, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403729/2015-02-09-RPC12-DH-1229_4__-_Standardised_Packaging_for_tobacco_products.pdf

[10] Psychoactive substances bill, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454028/2015-6-3-RPC15-HO-2379-New_psychoactive_substances_Bill_Final_v2.pdf

Net beneficial new or extended regulation

Plastic bags charge[11]

Net benefit to business of £203 million, qualifying-regulatory provision.

The measure requires large and medium sized retailers to charge consumers five pence for each single use plastic bag (SUPB). The retailer can retain all of the charge, but the IA includes an expectation that retailers will retain part of the charge to meet reasonable administration, reporting and transitional costs, and the remainder (about two pence per bag) will be passed on to charities.

There is no regulatory requirement for any of the charge to be passed on to charities or consumers (through lower prices). However, businesses will be required to report publicly on how the charge is dispersed.

The IA states that businesses will benefit from the proposal as reduced plastic bag use will result in reduced procurement, storage and transport costs. The Department expects the proposal to reduce plastic bag use by supermarkets by 80%. The IA estimates that the combination of cost savings and revenue from the charge, minus familiarisation and transitional costs, would result in £203 million of direct benefits to business each year.

[11] Plastic bags charge, RPC opinion, http://www.legislation.gov.uk/uksi/2015/776/impacts

Extension and simplification of the primary authority scheme[12]

Net benefit to business of £25.8 million, qualifying-regulatory provision.

The Primary Authority scheme enables businesses to have a single source of advice and point of contact for their local regulatory system. The measure opens the scheme to a wider range of businesses. This will make it easier for businesses operating in a single local authority area to receive tailored advice and for smaller and pre-start-up businesses to obtain advice.

The scheme will be voluntary. Around 5% of businesses eligible for the current scheme have joined. As the benefits per business for the proposed extension are likely to be lower than for businesses operating across local authorities under the current scheme, the Department assumes around 1% of newly eligible businesses will join the scheme; around 21,000 businesses by 2025/6. The Department has used feedback from businesses currently participating in the primary authority scheme, adjusted to reflect the likely lower level of benefit to businesses operating in a single authority area. Using this information, the Department estimates that regulatory consistency and reliable advice ('Assured Advice'), and accounting for expected costs, results in an average net benefit to each business of £2,400 each year. As take up of the scheme increases, it is expected to deliver a total annual net benefit of £49.5 million by 2025/6.

The proposal will also simplify the arrangements for businesses to obtain advice through coordinated partnerships. By removing the current two-step application process, advice can be obtained by a co-ordinator and disseminated to relevant members without the need for each individual member to apply for the scheme. The administrative time savings are expected to have an annual benefit of £2.0 million.

Taken together, both elements are expected to result in an overall estimated average annual benefit of £25.8 million.

[12] Extension and simplification of the Primary Authority scheme, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484012/2015-9-7-RPC3041_2_-BIS-_simplification_and_extension_of_the_primary_authority__was_2391_.pdf

Regulatory Policy Committee

Beneficial deregulation

Speeding up cheque payments by enabling cheque imaging[13]

Net benefit to business £100 million, qualifying regulatory provision.

The Small Business, Enterprise and Employment Act included provisions that will enable "cheque imaging" to be introduced in the UK. Customers who receive a cheque can either take it to their branch where it will be scanned and processed digitally or they can use their bank's mobile banking application to create the digital image of the cheque and pay it in electronically. Customers will still be able to pay in paper cheques, but will have the additional option to pay their cheque in by digital image.

All banks and building societies that offer cheque payment services in the UK will be affected by the proposal. It will also affect those businesses and civil society organisations that issue and receive cheques as part of their ways of making and receiving payments.

The significant benefits of the proposal are savings to the banking sector as the costs of processing physical, hard copy cheques are reduced. There will also be a significant reduction in the time it takes a cheque to clear, with the expectation that it will take less than two working days after being presented by the customer. In 2013, a total of 566 million items (cheques, bankers drafts and postal orders) were cleared through the Cheque & Credit Clearing payment system. Because the proposal will address some of the causes of the decline in cheque usage, the Treasury assumes that cheque volumes over the 10 year appraisal period will continue to decrease, but at a slightly lower rate.

Based on the cost savings to the banking industry, the proposal is expected to deliver a benefit of £100.3 million each year. This does not take account of the benefits to cheque recipients due to the difficulties in accurately estimating those effects.

Pro-competition measures

14. Measures that are considered to deliver benefits to society through encouraging more effective competition (pro-competition measures) can also have significant costs to incumbent businesses. While the changes to the better regulation framework have amended some aspects of how these are treated, for pro-competition measures with a direct net cost the overall effect is the same: the cost to incumbent businesses will not count towards the government's business impact

[13] Speeding up cheque payments, RPC opinion, http://www.parliament.uk/documents/impact-assessments/IA14-20G.pdf

target. This is intended to ensure the overall impact of how such measures are experienced is more accurately reflected, as benefits for new entrant businesses as a result of pre-competition measures are also not generally scored, because they are considered indirect under the methodology for measurement of impacts. Without this approach, measures that can reasonably expect to deliver a benefit to society and business would be considered as costly to business. The three pro-competition proposals included in this update are not expected to have large costs associated with them. However, we expect this will not be the case for all pro-competition measures across the parliament.

Extending competitive tendering in the electricity transmission network[14]

Net cost to business £7.8 million, a pro-competition non-qualifying regulatory provision.

The proposal will remove the automatic awarding of licences for electricity transmission and instead introduce a competitive tendering process for each licence. The measure would impose costs on the incumbent businesses, but the competition effect is expected to result in a new benefit to society. A competitive market is expected to inspire innovation which will result in a fall in operating costs, and the reduction in costs is expected to be greater than the costs associated with the tendering process, with a portion of the savings being passed on to consumers, including business customers.

The Department's best estimate of the costs of bidding in the tendering process was £90 million over 30 years, with OfGem also charging business a similar amount to cover the costs of running the tender process. The introduction of a competitive process is expected to save consumers £470 million over the same period.

Distribution of measures

15. As in the previous parliament, the majority of measures have a relatively small overall impact. While these changes may have notable implications for those organisations directly affected, the comparatively limited number of businesses and organisations or transactions affected suggests the impacts are likely to be relatively small in comparison to major proposals. This means that the regulatory landscape has been, and is likely to continue to be, dominated by a limited number of measures that affect a large volume of businesses and organisations across the economy.

[14] Extending competitive tendering in the electricity transmission network, RPC opinion, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493712/Impact_Assessment_-_Extending_competitive_tendering_in_the_GB_electricit___.pdf

16. The examples discussed above illustrate this – the introduction of a National Living Wage will have significant implications across many businesses affecting 1.7 million employees in private businesses, and the plastic carrier bags charge has had a wide ranging effect on many business transactions, with over 7 billion single use plastic bags given out by supermarkets each year before the charge was introduced.

17. So far this Parliament, the distribution of measures scrutinised by the RPC is skewed towards measures being net costly, both in terms of volume and scale of impacts, as a result of the small number of very large non-qualifying regulatory provisions. As highlighted above, five out of 109 measures (including qualifying and non-qualifying regulatory provisions) contribute 85% of the total impacts. However, it is too early to form a view on whether this is likely to be an ongoing trend, or the result of the distortionary effect of a small volume of very significant proposals that have either been prioritised early in the parliament or which were put in place during the previous parliament to come into force during this one.

18. The complete list[15] of the measures covered by this update can be found on the RPC website.

[15] https://www.gov.uk/government/publications/costs-and-benefits-of-new-regulation-regulatory-policy-committee-opinions-since-may-2015/costs-and-benefits-of-new-regulation