

Clarifying the process for the appointment of an administrator by a company or director

Department for Business, Innovation and Skills (Insolvency Service)

RPC rating: validated

Description of proposal

The legislation surrounding the appointment of an insolvency practitioner by the director of the company has been changed to clarify that a notice of intention does not need to be sent to 'prescribed persons', if the only prescribed person is the company itself. The IA explains that this is often the case and the process of sending a notice of intention unnecessarily slows the appointment procedure in these circumstances.

Current legislation allows for shareholders to appoint an insolvency practitioner; this route does not require a notice of intention to be issued to prescribed persons. Evidence from the consultation shows that businesses already choose this route to avoid delays and minimise the burdens of complying with the existing legislation. Although hosting a meeting of shareholders can be more financially costly, this cost is more than offset by time savings.

Impacts of proposal

On the basis of information supplied by insolvency practitioners to the consultation, the Department expects the measure to affect between 100 and 200 appointments a year. Each of these will have reduced costs and will, therefore, be able to return more money to creditors. The Department estimates that a meeting of shareholders costs between £1000 and £2000 per case. Combining these costs with the number of appointments that the measure is expected to affect provides a range of benefits between £0.1 and £0.4 million; the IA uses a central estimate of £0.25 million, of which £0.23 million is expected to benefit business creditors.

The IA explains that the only costs from the measure will be the cost of insolvency practitioners and managers familiarising themselves with the new legislation. In 2015 there were 1,359 insolvency practitioners and 2,718 insolvency managers. The Department expects each of these individuals to spend half an hour each in

Opinion: final stage
 Fast track: EANCB validation
 Origin: domestic
 RPC reference number: RPC-3243(1)-BIS
 Date of implementation: 1 October 2015

familiarising themselves with the new legislation. Based on their average hourly fee, the Department expects the one-off cost of familiarisation to be £0.6 million.

Based on current working assumptions, the RPC expects that this will be a qualifying regulatory provision that will score under the business impact target. The RPC is able to verify the estimated equivalent annual net cost to business (EANCB) of -£0.2 million.

Quality of submission

Overall, the analysis used in the IA provides a robust estimate of the impacts of the measure. However, the Department uses the average hourly fee charged by insolvency practitioners and managers as the opportunity cost of time spent on familiarisation with the change in legislation. The IA would benefit from an explanation of why this is an appropriate measure of the value of their time. For example, the hourly fee charged may include preparation time or overheads that are unaffected by the proposal. Nevertheless, given that this cost has only a very small impact on the EANCB, the RPC accepts that the Department has provided a proportionate and conservative assessment.

The IA would have also benefitted from a discussion over whether any companies still chose to appoint an insolvency practitioner via the director of the company. It is possible that any that did would have seen a benefit arise from a faster process, rather than the absence of a shareholder meeting.

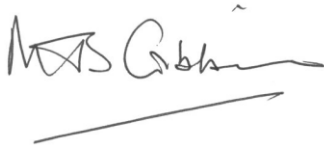
Departmental assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net cost to business (EANCB)	-£0.16 million
Business net present value	£1.38 million
Societal net present value	£1.55 million

Opinion: final stage
Fast track: EANCB validation
Origin: domestic
RPC reference number: RPC-3243(1)-BIS
Date of implementation: 1 October 2015

RPC assessment¹

Classification	Qualifying regulatory provision (OUT)
EANCB – RPC validated	-£0.2 million



Michael Gibbons CBE, Chairman

¹ The RPC verification of the estimated equivalent annual net cost to business (EANCB) and assessment of whether the measure is a qualifying regulatory provision are based on current working assumptions.