

<b>Title:</b> Motor Vehicles (Compulsory Insurance) (Amendment etc.) (EU Exit) Regulations 2019 <b>IA No:</b> DFT00410 <b>RPC Reference No:</b> RPC-4311(1)-DFT <b>Lead department or agency:</b> Department for Transport <b>Other departments or agencies:</b>	Impact Assessment (IA)
	<b>Date:</b> 14/12/2018
	<b>Stage:</b> Final stage
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary Legislation
<b>Summary: Intervention and Options</b>	<b>Contact for enquiries:</b> Homairah Ginwalla – Homairah.ginwalla@dft.gov.uk
	<b>RPC Opinion:</b> GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2016 prices)	One-In, Three-Out Not in scope	Business Impact Target Status Qualifying provision

#### What is the problem under consideration? Why is government intervention necessary?

Following the UK's exit from the EU, the codified Motor Insurance Directive that facilitates the visiting victims scheme (enabling UK residents that are victims of motor traffic accidents in the EEA to make claims in the UK) will cease to apply to the UK, as the UK will become a 'third country'. As a result of the European Union (Withdrawal) Act, if we were unable to reach an agreement with the EU and the Government did not make the proposed changes to the domestic legislation, visiting victims provisions would continue only in respect of the UK. This means that the Motor Insurers Bureau, as the UK's appointed Compensation Body, would retain responsibility for compensating UK residents injured in a traffic accident in the European Economic Area (EEA) without the ability to claim reimbursement from its foreign counterparts. The MIB would also have to continue reimbursing its foreign counterparts for claims made by EU27 visitors injured in the UK. Furthermore, the obligation on insurers based in the EEA to appoint a Claims Representative would cease. The MIB would thus have cost exposure for claims which would have previously been dealt with the appointed Claims Representatives. These costs would be passed on to insurers through the MIB's member levy, who may then pass this on to UK motorists in the form of higher motor insurance premiums. As a result, UK motorists would be paying for traffic accidents caused by EEA motorists on an ongoing basis. The main policy purpose of the proposed Statutory Instrument is therefore in preparation for a scenario where we do not reach an agreement on motor insurance with regards to visiting victims with the EU.

#### What are the policy objectives and the intended effects?

The policy objective is to amend domestic legislation in the event that no agreement on visiting victims is reached, so that motor insurance visiting victims arrangements do not continue unilaterally and unfairly burden UK bodies, businesses and motorists. We also want to ensure that visiting victims compensation claims that have not been finally determined or settled on exit day are addressed ('open cases'). The intended effects are to mitigate the cost burden on MIB, and subsequently on insurers and UK motorists, and reduce the risk of confusion for UK residents in relation to claims that can be made against MIB and against insurers.

#### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

##### Baseline 0

Current Arrangements 0.1: Existing EU legislation applies that facilitates reciprocal visiting victims arrangements. Do Nothing 0.2: Existing EU legislation no longer applies. The automatic legal effect of this is that visiting victims provisions continue unilaterally beyond exit day for UK victims of accidents in the EEA. EU Member States are no longer required to make reciprocal arrangements.

##### Options

Option 1: Existing EU legislation no longer applies. We remove visiting victims provisions and do not address open cases.

Option 2(a): Existing EU legislation no longer applies. We maintain visiting victims provisions only for open cases where the date of accident occurred prior to exit day.

Option 2(b): Existing EU legislation no longer applies. We maintain visiting victims provisions only for open cases where there is an existing application lodged with the MIB prior to exit day.

Option 2(c): Existing EU legislation no longer applies. We maintain visiting victims provisions only for open cases in which legal proceedings were commenced prior to exit day.

**Option 2(c) is the preferred option because it reduces the risk of confusion for UK residents by ensuring the same criteria is applied for making/continuing unsettled visiting victims claims against both the MIB and insurers in the UK, as well as mitigating the risk of higher motor insurance premiums.**

Will the policy be reviewed? It will not be reviewed.

Does implementation go beyond minimum EU/International requirements?	No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A		Non-traded: N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible:



Date

14 / 12 / 18

## Summary: Analysis & Evidence

## Do Nothing Baseline

**Description:** Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply to the UK. We nevertheless maintain visiting victims provisions unilaterally.

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Not Quantified (NQ)	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised costs by 'main affected groups'

This option would place an ongoing, ultimate annual cost burden on the Motor Insurers' Bureau (MIB). This cost will be passed onto insurers through the MIB's member levy, who may then pass these costs onto motorists in the form of higher motor insurance premiums. We expect the impact per motor insurance policy to be small.

#### Other key non-monetised costs by 'main affected groups'

We do not envisage there to be other key non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Other key non-monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Key assumptions/sensitivities/risks

Discount rate (%)

### BUSINESS ASSESSMENT (Do Nothing)

Direct impact on business (Annualised) £m:			Score for Business Impact Target (qualifying provisions only) £m: 0.0
Costs: NQ	Benefits: NQ	Net: NQ	

## Summary: Analysis & Evidence

## Policy Option 1

**Description:** Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We remove domestic visiting victims provisions and do not address open cases.

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised costs by 'main affected groups'

There will be one-off familiarisation costs, associated with personal injury law firms and insurers understanding changes being made to visiting victims legislation.

#### Other key non-monetised costs by 'main affected groups'

This option removes a scheme that helps thousands of UK residents make claims in the UK each year. Furthermore, it could be considered unfair by victims of motoring accidents because it prevents claims being made in the UK even if the date of accident was prior to exit day and prevents claims from continuing even if legal proceedings have already commenced.

Furthermore, we expect other EU Exit legislation to apply a criterion for continuing/making unsettled/undetermined claims ('open cases') against EEA/foreign insurers that requires legal proceedings to have been commenced prior to exit day. If we were to prevent all claims being made against MIB moving forward and not address open cases, this could create confusion for motorists.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Other key non-monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Key assumptions/sensitivities/risks

Discount rate (%)

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Annualised) £m:			Score for Business Impact Target (qualifying provisions only) £m: NQ
Costs: NQ	Benefits: NQ	Net: NQ	



## Summary: Analysis & Evidence

## Policy Option 2a

**Description:** Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where the date of accident occurred before the day on which EU law ceases to apply to the UK.

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised costs by 'main affected groups'

This Option could place an initial cost burden on the UK's Motor Insurers' Bureau for unsettled/undetermined visiting victims claims ('open cases'), which will be passed onto insurers through a higher member levy applied by MIB. Insurers may in turn pass this cost onto motorists in the form of higher motor insurance premiums. We estimate the impact per insurance policy would be minimal.

There will also be one-off familiarisation costs, associated with personal injury law firms and insurers understanding changes being made to visiting victims legislation.

#### Other key non-monetised costs by 'main affected groups'

This Option removes a scheme that helps thousands of UK residents make claims in the UK each year. However, victims injured in traffic accidents in the EEA when EU law still applied in the UK will still be able to claim for accidents after EU Exit.

Furthermore, we expect other EU Exit legislation to apply a criterion for continuing/making unsettled/undetermined claims ('open cases') against EEA/foreign insurers that requires legal proceedings to have been commenced prior to exit day. If we were to prevent all claims being made against MIB moving forward and not address open cases, this could create confusion for motorists.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Other key non-monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Key assumptions/sensitivities/risks

Discount rate (%)

### BUSINESS ASSESSMENT (Option 2a)

Direct impact on business (Annualised) £m:			Score for Business Impact Target (qualifying provisions only) £m: NQ
Costs: NQ	Benefits: NQ	Net: NQ	

## Summary: Analysis & Evidence

## Policy Option 2b

**Description:** Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where there is an existing application with the UK Motor Insurers' Bureau (MIB).

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised costs by 'main affected groups'

This Option could place an initial cost burden on the UK's Motor Insurers' Bureau for unsettled/undetermined visiting victims claims ('open cases'), which will be passed onto insurers through a higher member levy applied by MIB. Insurers may in turn pass this cost onto motorists in the form of higher motor insurance premiums. We estimate the impact per insurance policy would be minimal.

There will also be one-off familiarisation costs, associated with personal injury law firms and insurers understanding changes being made to visiting victims legislation.

#### Other key non-monetised costs by 'main affected groups'

This Option removes a scheme that helps thousands of UK residents make claims in the UK each year. Furthermore, it could be considered unfair by victims because it prevents claims being made in the UK even if the date of accident occurred when EU law still applied.

Furthermore, we expect other EU Exit legislation to apply a criteria for continuing/making unsettled/undetermined claims ('open cases') against EEA/foreign insurers that focuses on whether or not legal proceedings have commenced. If we were to apply a different criteria for continuing/making unsettled/undetermined claims against MIB that focuses on whether or not there is an existing application with MIB, this could create confusion for motorists.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

#### Other key non-monetised benefits by 'main affected groups'

No additional benefits are expected relative to the Status Quo baseline.

Key assumptions/sensitivities/risks	Discount rate (%)

### BUSINESS ASSESSMENT (Option 2b)

Direct impact on business (Annualised) £m:			Score for Business Impact Target (qualifying provisions only) £m: NQ
Costs: NQ	Benefits: NQ	Net: NQ	

## Summary: Analysis & Evidence

## Policy Option 2c

**Description:** Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases in which legal proceedings were commenced before the day on which EU law ceases to apply in the UK.

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised costs by 'main affected groups'

This Option could place an initial cost burden on the UK's Motor Insurers' Bureau for unsettled/undetermined visiting victims claims ('open cases'), which will be passed onto insurers through a higher member levy applied by MIB. Insurers may in turn pass this cost onto motorists in the form of higher motor insurance premiums. We estimate the impact per insurance policy would be minimal.

There will also be one-off familiarisation costs, associated with personal injury law firms and insurers understanding changes being made to visiting victims legislation.

#### Other key non-monetised costs by 'main affected groups'

This Option removes a scheme that helps thousands of UK residents make claims in the UK each year. Furthermore, it could be considered unfair by victims because it prevents claims being made in the UK even if the date of accident occurred when EU law still applied. For example, it may prove challenging for those that are injured days or weeks prior to exit day to lodge a claim in time. However, it reduces the risk of confusion for UK residents by applying the same criteria for continuing/making unsettled/undetermined visiting victims claims ('open cases') against MIB as it is expected will be applied for such claims against insurers in other EU Exit legislation.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

No additional benefits are expected relative to the baseline.

#### Other key non-monetised benefits by 'main affected groups'

No additional benefits are expected relative to the baseline.

#### Key assumptions/sensitivities/risks

Discount rate (%)

### BUSINESS ASSESSMENT (Option 2c)

Direct impact on business (Annualised) £m:			Score for Business Impact Target (qualifying provisions only) £m: NQ
Costs: NQ	Benefits: NQ	Net: NQ	

# Evidence Base

## Background

### Leaving the EU

The United Kingdom will exit the EU on 29 March 2019 and is seeking to ensure that the Withdrawal Agreement and Future Framework document are agreed ahead of that. The government's objectives were set out in the Prime Minister's Article 50 letter in March 2017, and in the White Paper on the Future Relationship with the EU which was published in July 2018<sup>1</sup>.

### Motor insurance visiting victims scheme

The EU Motor Insurance Directives were established in order to enhance both the protection of victims of traffic accidents and freedom of movement within the EEA. One of their key achievements has been the introduction of the Protection of Visitors scheme ('visiting victims'), which enables victims who are injured in a traffic accident in an EEA Member State other than that in which they are resident to bring claims against the insurer or its representative, or the national insurers' bureau, in the victim's own country of residence and in their own language.

The 4th EU Motor Insurance Directive (2000/26/EC), since replaced by the Codified Motor Insurance Directive (MID) (2009/103/EC), created the following legal obligations:

- Each Member State ensures that insurers appoint a Claims Representative, to which victims can present a claim for compensation, in all other Member States;
- Each Member State establishes or authorises a Compensation Body (Motor Insurers' Bureau [MIB] in UK) that is responsible for compensating the victim in four situations (no claims representative appointed – no reasoned reply to the victim's claim from the claims representative within three months – non identification of the vehicle responsible for the accident – non identification of the insurance undertaking of this vehicle);
- Each Member State establishes or authorises an Information Centre (Motor Insurers' Information Centre [MIIC] in the UK, a division of the MIB) responsible for providing information about the insurer, claims representative and possibly the driver responsible for the accident.

The Compensation Body elements came into effect through the conclusion of an agreement between EEA Member State bodies (2002 Compensation Bodies and Guarantee Funds Agreement), the issuing of a Decision by the Commission (2003/20/EC) and the UK implementation of those provisions in *The Motor Vehicles (Compulsory Insurance) (Information Centre and Compensation Body) Regulations 2003*. No similar agreement was required to bring the Information Centre responsibilities into effect. However, outside of the Directive, Member State bodies decided to formalise and detail information sharing arrangements via the 2010 Information Centres Agreement.

### Benefits of visiting victims scheme

The Motor Insurers' Bureau (MIB) estimates that 5,000 UK road traffic victims make claims via the visiting victims scheme each year. Of these 5,000, 4,300 claims are made against insurers and 700 are made against the MIB.

For victims, the scheme provides three principle benefits:

- Easier claims procedure – familiarity with UK claims settlement process
- Quicker claims procedure – imposed timeframe for processing claims
- Improved information – sharing information about insurers.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/725288/The\\_future\\_relationship\\_between\\_the\\_United\\_Kingdom\\_and\\_the\\_European\\_Union.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/725288/The_future_relationship_between_the_United_Kingdom_and_the_European_Union.pdf)



## **Problem under consideration and rationale for intervention**

Following the UK's exit from the EU, the existing EU legislation that facilitates the visiting victims scheme will cease to apply to the UK. The arrangements that replace these rules will be subject to negotiation between the UK and EU. In order to ensure a fair and orderly exit from the EU, it is nevertheless sensible that we carry out the relevant preparations for a No Deal scenario.

In a No Deal scenario, the UK would continue to domestically apply visiting victims provisions and the role of MIB as the UK Compensation Body unilaterally. Obligations on Member States in respect of the UK would cease to apply. This means UK residents injured in a traffic accident in the EEA could continue to make visiting victims claims in the UK following EU Exit. Importantly, without reciprocal arrangements there would also no longer be an obligation for other EEA Member States to have Claims Representatives in the UK, which means the 4,300 insurer claims would now fall on MIB.

If the Government does not make changes to domestic legislation for a No Deal scenario, the MIB would have cost exposure for these 5,000 visiting victims claims and would not be able to seek reimbursement from foreign bureaux. These costs would be passed on to insurers through the MIB's member levy, who may then pass them on to UK motorists in the form of higher motor insurance premiums. As a result, UK motorists would be paying for traffic accidents caused by EEA motorists on an ongoing basis.

## **Policy objectives**

This SI will address inappropriate references across the roads insurance legal framework.

The main policy purpose of the SI is in preparation for a scenario where we do not reach an agreement on motor insurance visiting victims with the EU. It is to ensure that on Exit Day, in the situation of No Deal, the UK is not unilaterally applying the visiting victims provisions without access to reciprocal arrangements in the EU. The amendments must be made to the *Motor Vehicles (Compulsory Insurance) (Information Centre and Compensation Body) Regulations 2003* in order to address how these provisions should continue to be applied.

The policy objective is to amend domestic legislation so that the UK does not continue to apply motor insurance visiting victims provisions unilaterally, unfairly burdening UK bodies, businesses and motorists. We also want to ensure that visiting victims compensation claims that have not been finally determined or settled on exit day are addressed ('open cases'). The options set out in this IA relate to if and how we address open cases and will not affect the long-term arrangements.

The intended effect is to mitigate the cost burden on MIB, and subsequently on insurers and UK motorists, reducing the risk of confusion for UK residents in relation to claims that can be made against MIB and against insurers.

## **Description of options considered in a No Deal scenario (including 'Do Nothing')**

### **Baseline 0**

#### **0.1 Current Arrangements: Existing EU legislation that facilitates the visiting victims scheme, continues to apply**

The current arrangements mean that there are reciprocal visiting arrangements with other EEA Member States. If a UK resident is a victim of a traffic accident in an EEA Member State, s/he can bring a claim against the insurer or its representative, or the national insurers' bureau, in the UK in English. **All options considered are assessed against this baseline.**

#### **0.2 Do Nothing: Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply to the UK. We nevertheless maintain visiting victims provisions unilaterally.**

The second baseline is one where reciprocal visiting victims arrangements with other EEA Member States no longer applies. However, we continue to apply visiting victims provisions unilaterally for



UK residents injured in a traffic accident in an EEA Member State. The MIB as UK Compensation Body would have ongoing cost exposure for claims made against them and would not be able to seek reimbursement from foreign bureaux.

**Option 1: Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We remove domestic visiting victims provisions and do not address open cases.**

In this scenario, reciprocal visiting victims arrangements with other EEA Member States are not maintained and we do not continue to apply provisions unilaterally.

UK victims injured in a traffic accident in an EEA Member State will have to make their claim in the country of accident.

**Option 2(a): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where the date of accident occurred before the day on which EU law ceases to apply to the UK.**

In this scenario, reciprocal visiting victims arrangements with other EEA Member States are not maintained. We continue to apply visiting victims provisions unilaterally for UK residents injured in a traffic accident in an EEA Member State before the day on which EU law ceases to apply to the UK. However, the MIB as UK Compensation Body would have cost exposure for those open cases and would not be able to seek reimbursement from foreign bureaux.

Moving forward without visiting victims provisions, UK residents injured in a traffic accident in an EEA Member State will still be able to make a claim, but it will have to be in the country of accident.

**Option 2(b): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where there is an existing application with the MIB.**

In this scenario, reciprocal visiting victims arrangements with other EEA Member States are not maintained. We continue to apply visiting victims provisions unilaterally for UK residents injured in a traffic accident in an EEA Member State that have made a claim against the MIB before the date on which EU law ceases to apply to the UK. However, the MIB as UK Compensation Body would have cost exposure for those open cases and would not be able to seek reimbursement from foreign bureaux.

Moving forward without visiting victims provisions, UK residents injured in a traffic accident in an EEA Member State will still be able to make a claim, but it will have to be in the country of accident.

**Option 2(c): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases in which legal proceedings were commenced before the day on which EU law ceases to apply in the UK.**

In this scenario, reciprocal visiting victims arrangements with other EEA Member States are not maintained. We continue to apply visiting victims provisions unilaterally for UK residents injured in a traffic accident in an EEA Member State that have commenced legal proceedings against the MIB before the day on which EU law ceases to apply in the UK. However, the MIB as UK Compensation Body would have cost exposure for those open cases and would not be able to seek reimbursement from foreign bureaux.

Moving forward without visiting victims provisions, UK residents injured in a traffic accident in an EEA Member State will still be able to make a claim, but it will have to be in the country of accident.

## **Monetised and non-monetised costs and benefits of each option (including administrative burden)**

The impact analysis provides an indicative assessment of the costs and benefits from each scenario presented compared to the baseline. However, given that the policy options under consideration are all consistent, other than around the treatment of open cases, we have not undertaken a detailed assessment of the long-term outcome against the baseline.

### **Familiarisation costs**

Before evaluating specific costs associated with each option, we have calculated that there will be one-off familiarisation costs across all options, associated with personal injury law firms (Table 1) and insurers (Table 2) understanding changes being made to visiting victims legislation.

In Table 1, we estimate that it will take up to 1 hour for personal injury law firms to familiarise themselves with the changes, specifically around handling claims of UK victims of traffic accidents in the EEA. This involves one employee reviewing the legislation, which is not extensive, and providing a summary note for their colleagues. The total one-off familiarisation costs for personal injury lawyers are estimated to be between £76,400 in the low case and £93,400 in the high case.

We assume a senior manager in each personal injury law firm will take 1 hour to familiarise themselves with the changes and provide a summary note to send around the firm.

*Table 1: Total one-off familiarisation costs for personal injury lawyer firms*

	Number of personal injury law firms in the UK	Hourly rate (£)	Total familiarisation costs
<b>Low case</b>	2520	£30 <sup>2</sup>	£76,400
<b>Medium case</b>	2800	£30	£84,900
<b>High case</b>	3080	£30	£93,400

In Table 2, we estimate that it takes up to 1 hour for an insurer to familiarise themselves with the changes, specifically around handling claims of EEA victims of traffic accidents in the UK and the requirement for Claims Representatives in EEA countries.<sup>3</sup> This involves one senior manager taking 1 hour to review an update on these changes from a legal subscription service and send a summary note around the firm. The total one-off familiarisation costs for UK insurers are estimated to be £2,600.

*Table 2: Total one-off familiarisation costs for insurers*

Number of insurers in the UK	Hourly rate	Total familiarisation costs
92	£28.18 <sup>4</sup>	£2,600

These figures are based on. We assume an hourly wage of £28.18<sup>5</sup> and include a wage uplift of 20.2%, to give a total of £2,600.

**Costs and benefits of Do Nothing: Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply to the UK. We nevertheless maintain visiting victims provisions unilaterally.**

### ***Expected costs***

<sup>2</sup> ASHE (2017), Legal and accounting services salary, age range 40-49. We assume senior managers will have an average age range of 40-49. Adjusted for inflation and including a 20.2% wage uplift (within range of WebTag)

<sup>3</sup> UK insurers are required to have Claims Representatives in each EEA country under the visiting victims scheme, handling claims for EEA victims of traffic accidents in the UK. This requirement does not extend to brokers/intermediaries.

<sup>4</sup> ASHE (2017): Managers, directors and senior officials. Adjusted for inflation and including a 20.2% wage uplift.

- Direct costs
  - a. Costs to MIB – the MIB would have ongoing cost exposure for visiting victims claims and would not be able to seek reimbursement from foreign bureaux, as they are able to under the status quo. The MIB would recover these costs from insurers (see b.).
  - b. Costs to insurers - the MIB is funded through a levy imposed on its motor insurer members. This levy includes costs incurred through the visiting victims scheme. The cost burden on MIB will therefore be passed on to insurers in the form of a higher levy. Under the status quo, insurers would not face this additional cost.
- Indirect costs
  - a. Costs to motorists - insurers may pass this cost incurred through a higher levy on to UK motorists in the form of higher premiums. We are unable to determine what this actually means per motor insurance policy, but we estimate any increase to be small.

#### *Expected benefits*

In a Do Nothing scenario, no additional benefits are expected relative to the Status Quo baseline.

**Costs and benefits of Option 1: Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We remove domestic visiting victims provisions and do not address open cases.**

This option completely removes visiting victims provisions, which would otherwise have been maintained unilaterally under the do nothing baseline option. Therefore, the opportunity for victims injured in a traffic accident within the EEA (before or after Exit Day) to claim compensation in the UK from the appointed Compensation Body, MIB, is entirely removed. Under this option, open cases would not be addressed, which they would have been if visiting victims provisions were maintained unilaterally under the baseline option.

Relative to the Status Quo, where victims injured in a traffic accident in the EEA are able to claim compensation in the UK rather than in the country of accident, Option 1 entirely removes the opportunity for victims to claim for traffic accidents in the EEA through the MIB.

#### *Expected costs*

- Direct costs
    - a. Costs to victims of traffic accidents in EEA – this option could be considered unfair by victims because it prevents claims being made in the UK even if the date of accident occurred when EU law still applied and prevents claims from continuing even if legal proceedings have already commenced. With regards to the latter, significant legal costs may already have been incurred and the victim will then face additional legal costs having to hire a foreign lawyer. More generally, it removes a scheme that helps thousands of UK residents make claims in the UK each year. They must now make claims in the country where the accident occurred and in a foreign language.
- Additionally, this could create confusion for claimants as current plans for on shoring Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("Brussels Recast") suggest that whether or not legal proceedings have commenced will be the criteria which is applied to open cases. That legislation applies to claims against insurers and will therefore result in a different criterion for claims against insurers as for claims against MIB.

#### *Expected benefits*

Following deep consideration, it can be concluded that under this option, no additional benefits are expected relative to the Status Quo baseline.

**Costs and benefits of Option 2(a): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where the date of accident occurred before the day on which EU law ceases to apply to the UK.**

Relative to status quo, Option 2(a) maintains visiting victims provisions but only for a limited number of cases. Only open cases for traffic accidents in the EEA which occurred before Exit Day, would be compensated through the MIB. This would mean that relative to the status quo, victims of a traffic accident in the EEA would only be able to claim compensation through the MIB for open cases which occurred before Exit Day. For cases outside of this criterion, victims must claim in the country of accident.

However, in the unlikely event of a no deal, where the do-nothing baseline becomes the default scenario, option 2(a) would greatly reduce the cost burden on MIB, relative to the do-nothing scenario, as here they would not have to continue compensating for accidents that occur even after Exit Day, without being reimbursed by their foreign counterparts.

#### *Expected costs*

- Direct costs
  - a. Costs to MIB – the MIB would have cost exposure for these open cases and would not be able to seek reimbursement from foreign bureaux as they do under the status quo. The MIB would recover these costs from insurers (see below).
  - b. Costs to insurers – the MIB is funded through a levy imposed on its motor insurer members. This levy includes costs incurred through the visiting victims scheme. The cost burden on MIB will therefore be passed on to insurers in the form of a higher levy, an additional cost that insurers would not face under the status quo.
  - c. Costs to victims of traffic accidents in EEA – this option means that victims injured in traffic accidents in the EEA when EU law still applied in the UK will still be able to claim in the UK after EU Exit. However, for those injured in accidents after EU Exit, they must now make claims in the country where the accident took place. There may also be additional costs incurred by victims as a result of this.

Additionally, this could create confusion for claimants as current plans for onshoring the Brussels Recast regulations on legal jurisdiction and enforcement of judgments suggest that this will be saved only in respect claims where legal proceedings have commenced before exit day. Brussels Recast applies to claims against insurers, resulting in a different criterion for claims against insurers as for claims against MIB.
- Indirect costs
  - a. Costs to motorists - insurers may pass the costs incurred through a higher levy on to UK motorists in the form of higher premiums. We are unable to determine what this actually means per motor insurance policy, but we estimate the increase to be minimal.

#### *Expected benefits*

Under this option, no additional benefits are expected relative to the Status Quo baseline.

**Costs and benefits of Option 2(b): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases where there is an existing application with the MIB.**



Relative to the status quo, Option 2(b) maintains visiting victims provisions but for a limited number of cases. Only open cases where there is an existing application with the MIB will be compensated beyond Exit Day. This would mean a smaller number of victims of an accident occurring in the EEA would have the opportunity to claim compensation in the UK, relative to the status quo.

Option 2(b) would mean that victims of a traffic accident would only be able to claim compensation from MIB, if they have an existing application with MIB prior to Exit Day. This is contrary to the Status Quo, where visiting victims provisions would continue beyond Exit Day, as it does currently, and the MIB would continue to be able to claim reimbursement from its foreign counterparts.

However, in the unlikely event of a no deal, where the do-nothing baseline becomes the default scenario, option 2(b) would greatly reduce the cost burden on MIB, as they would not have to continue compensating for accidents that occur even after Exit Day.

### *Expected costs*

- Direct costs

- a. Costs to MIB – as in Option 2(a).
- b. Costs to insurers – as in Option 2(a).
- c. Costs to victims of traffic accidents in EEA – this option could be considered unfair by victims because it prevents claims being made in the UK even if the date of accident occurred when EU law still applied. More generally, it removes a scheme that helps thousands of UK residents make claims in the UK each year. They must now make claims in the country where the accident took place. There may also be additional costs incurred by victims as a result of this.

Additionally, this could create confusion for claimants as current plans for onshoring the Brussels Recast regulations on legal jurisdiction and enforcement of judgments suggest that this will be saved only in respect of claims where legal proceedings have commenced before exit day. Brussels Recast applies to claims against insurers, resulting in a different criterion for claims against insurers as for claims against MIB.

- Indirect costs

- a. Costs to motorists - insurers may pass the costs incurred through a higher levy on to UK motorists in the form of higher premiums. Unfortunately, we are unable to determine what this actually means per motor insurance policy, but we estimate the increase to be minimal and less than that resulting from Option 2(a).

### *Expected benefits*

Under this option, no additional benefits are expected relative to the Status Quo baseline.

**Costs and benefits of Option 2(c): Following the UK's exit from the EU, existing EU legislation that facilitates the visiting victims scheme ceases to apply. We nevertheless maintain visiting victims provisions beyond exit day for open cases in which legal proceedings were commenced before the day on which EU law ceases to apply in the UK.**

Relative to the status quo, Option 2(c) maintains visiting victims provisions but for a limited number of cases. Only open cases where legal proceedings were commenced before Exit Day will be compensated beyond Exit Day by the MIB. This would mean a smaller number of victims of an accident occurring in the EEA would have the opportunity to claim compensation in the UK, relative to the status quo.

Option 2(c) would mean that victims of a traffic accident would only be able to claim compensation from the UK's Compensation Body, MIB, if they have commenced legal proceedings prior to Exit Day. This is contrary to the Status Quo, where visiting victims provisions would continue beyond Exit Day, as it does currently, and the MIB would continue to be able to claim reimbursement from its foreign counterparts.



However, in the unlikely event of a no deal, where the do-nothing baseline becomes the default scenario, Option 2(c) would greatly reduce the cost burden on MIB, as they would not have to continue compensating for accidents occurring before and after Exit Day.

### *Expected costs*

- Direct costs
  - a. Costs to MIB – as in Option 2(a).
  - b. Costs to insurers - as in Option 2(a).
  - c. Costs to victims of traffic accidents– this option could be considered unfair by victims because it prevents claims being made in the UK even if the date of accident occurred when EU law still applied. More generally, it removes a scheme that helps thousands of UK residents make claims in the UK each year. They must now make claims in the country where the accident took place. There may also be additional costs incurred by victims as a result of this.
  - d. However, it mitigates confusion by ensuring the same criteria for claims against MIB and insurers. Current plans for on shoring the Brussels Recast regulations on legal jurisdiction and enforcement of judgments suggest that this will be saved only in respect of claims where legal proceedings have commenced before exit day. Brussels Recast applies to claims against insurers.
- Indirect costs
  - a. Cost to motorists - insurers may pass the costs incurred through a higher levy on to UK motorists in the form of higher premiums. Unfortunately, we are unable to determine what this actually means per motor insurance policy, but we estimate the increase to be minimal and less than that resulting from Option 2(a).

### *Expected benefits*

Under this option, no additional benefits are expected relative to the Status Quo baseline.

### **Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

The impact analysis provides an indicative qualitative assessment of the costs and benefits from each scenario presented compared to the baseline due to limited data. HMT Green Book guidance on appraisal has been followed as far as possible.

### **Wider impacts**

#### Small and Micro Business Assessment

The levy imposed by the MIB is borne by all insurers. SME motor insurance providers are not excluded. As such, any increase in the levy as a result of changes to domestic visiting victims provisions will be felt by motor insurers of all sizes, including SMEs.

MIB does not contain information on the categorisation of its members by company size. Due to confidentiality reasons, we have also not been able to obtain a breakdown of the UK motor insurance sector by company size. However, MIB has informed us that the total levy due for each Member is determined in large part by that member's gross written premium as a proportion of the total premium written by all members. As a result, SMEs that have low gross written premiums will contribute proportionally less to the levy. Due to these lower proportional charges and an inability to influence MIB's member levy, we do not think the Government can or should intervene to try to exempt SMEs from this cost.

### **Summary and preferred option with description of implementation plan.**

Our preferred option is Option 2(c) for this SI, which means that only UK residents who have already issued proceedings against the MIB would be able to continue pursuing visiting victims claims in the UK.

This mitigates the risk of confusion for victims by ensuring the same criteria for claims against MIB and insurers. Although the actual difference to motorists is expected to be small, this approach also has a lower risk of higher insurance premiums in comparison to Options 2(a) where date of accident is applied. However, some victims might consider this option unfair because it prevents some claims being made in the UK despite the date of accident occurring when EU law still applied. Provided we carry out a clear and effective communications campaign ahead of leaving the EU, advising UK residents of these changes and the possibilities open to them for making a claim, victims will still be able to pursue their claims and the risk of challenge and subsequently successful challenge can be reduced.

### **Specific Impact Test**

#### Justice Impact Test

We consider that the proposal has an impact on the justice system and therefore requires a Justice Impact Test. A Justice Impact Test has therefore been completed and will accompany the Impact Assessment.

# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	<p>Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	<p>Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2</p> <p>In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs</p>	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

# Post-Implementation Review Plan

Consider whether the policy be reviewed. Either provide an outline of what a potential PIR will cover or provide explanatory text outlining the reasons one is deemed unnecessary. Further guidance on review clauses is available from the Better Regulation Unit.

## 1. Review status: Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input checked="" type="checkbox"/>	No plan to review
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## 2. Expected review date (month and year):

X	X	/	X	X
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Delete

Delete as appropriate

### Rationale for PIR approach:

Describe the rationale for the evidence that will be sought and the level of resources that will be used to collect it.

- Will the level of evidence and resourcing be low, medium or high? (See Guidance for Conducting PIRs)
- What forms of monitoring data will be collected?
- What evaluation approaches will be used? (e.g. impact, process, economic)
- How will stakeholder views be collected? (e.g. feedback mechanisms, consultations, research)

### Rationale for not conducting a PIR:

We do not think a PIR is required for this SI. This SI is removing provisions for a system that relies on reciprocal arrangements between Member State Compensation Bodies. Further evaluation of its effectiveness and validity of objectives is therefore not deemed necessary.



