

Seafarers' Wages Bill

Lead department	Department for Transport
Summary of proposal	To empower Statutory Harbour Authorities to levy surcharges on and ultimately suspend operators calling regularly at their port who do not pay their seafarers at least an equivalent rate to the UK National Minimum Wage while in UK waters.
Submission type	Impact assessment (IA) – 7 July 2022
Legislation type	Primary legislation
Implementation date	2024
Policy stage	Final
RPC reference	RPC-DfT-5190(2)
Opinion type	Formal
Date of issue	28 July 2022

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The IA provides a clear and thorough monetised assessment of impacts. The IA's assessment of direct impacts on business and impacts at primary legislation stage are in line with RPC guidance and criteria in these areas. The IA's assessment of wider impacts is particularly strong.

Business impact target assessment

	Department assessment	RPC validated
Classification	Non-qualifying regulatory provision (<i>de minimis</i>)	Non-qualifying regulatory provision (<i>de minimis</i>)
Equivalent annual net direct cost to business (EANDCB)	£3.0 million	N/A
Business impact target (BIT) score	N/A	N/A
Business net present value	-£298.2 million	
Overall net present value	-£0.6 million	

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality ²	RPC comments
EANDCB	Green	The IA correctly identifies and monetises direct impacts on business. The assessment is in line with RPC guidance on primary legislation measures. The IA would benefit from further discussion of changes to the counterfactual.
Small and micro business assessment (SaMBA)	Green	The IA explains that few, if any, SMBs will be within scope of the proposal but provides a discussion of wider potential SMB impacts, for example on employment agencies, disproportionality and exemption.
Rationale and options	Good	The Department has improved the clarity of rationale since consultation, with an increased emphasis on UK-resident seafarers' welfare and UK competitiveness. The IA explains why options are limited but provides a discussion of non-regulatory options.
Cost-benefit analysis	Good	The IA includes a detailed monetised assessment of costs and benefits, which appears to be based on good evidence and available data. The IA would benefit from some clarification and provision of sensitivity analysis in places.
Wider impacts	Good	The IA provides good assessment of a range of wider impacts, with particularly detailed assessments of pass-through of costs and, especially, competition impacts.
Monitoring and evaluation plan	Satisfactory	The IA provides a clear and proportionate monitoring and evaluation plan, with a focus on assessing whether risks have materialised, in particular risks affecting the effectiveness of the policy.

² The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

Summary of proposal

The proposal would empower Statutory Harbour Authorities (SHAs) to levy surcharges on, and ultimately to suspend, operators calling regularly at their port who do not pay their seafarers at least an equivalent rate to the UK National Minimum Wage (termed NMWe) while in UK waters. The proposal would apply to all international services calling at a UK port at least once every 72hrs (average frequency over a year, so 120 or more calls per year).

The IA estimates a cost of £390.7 million over ten years in present value terms. Nearly all of this comprises additional wage and non-wage labour costs incurred by vessel operators. £283.6 million is a direct cost of raising wages to the NMWe and £106.4 million is an indirect cost of maintaining wage differentials for workers not directly affected by the proposal. These labour costs are matched by benefits, primarily to seafarers in the form of higher wages. The very small net overall monetised cost to society consists of transition (familiarisation and contract re-issue) and on-going non-pay compliance costs (making declarations and conducting spot checks) to operators, ports and enforcement bodies. The Department estimates that most costs will fall on non-UK businesses and includes only costs to UK-owned vessels in its central estimate for the EANDCB of £3.0 million.

EANDCB

Direct and indirect impact(s)

The IA correctly identifies and monetises the direct impacts on business of the proposal. By far the most significant cost is that to operators of raising the pay of their seafarers to comply with the minimum pay requirements, which is correctly treated as a direct cost to business. The IA also appropriately treats transition and non-pay ongoing compliance costs to operators and private sector ports as direct costs to business. Following the RPC's informal review at consultation stage, the IA now monetises increases in pay for seafarers not directly in scope who are given pay rises to maintain differentials. These are treated as an indirect cost, in line with the BEIS IAs for periodic UK NMW uprating.

The IA describes how identifying impacts on UK business is complicated by the international nature of the maritime sector and presents three alternative accounting bases: UK-owned vessels; UK-flagged vessels; and vessels in UK waters. The IA provides a thorough discussion of each approach, including referring to treatment of this issue in previous maritime IAs and in economic statistics. The IA concludes that in this case UK-owned vessels best corresponds to economic activity conducted by companies located in the UK and puts forward its best estimate for the EANDCB on this basis. The IA's rejection of using vessels in UK waters (which has by far the largest EANDCB) seems justified since it would include vessels that would not generally be considered part of the UK economy. The choice between using UK-

owned or UK-flagged vessels seems much more finely balanced but the IA's preference for the former appears to be reasonable in this case.

Primary legislation IA requirements

The IA notes that some aspects of the policy may be specified in secondary legislation but that the present IA is able to provide a full assessment of the costs and benefits of the entire policy. The IA is, therefore, in line with 'scenario 1' in the RPC guidance for impact assessment at primary legislation stage.³ The Department correctly commits to an updated IA if secondary legislation differs materially from that anticipated here.

Counterfactual

The IA notes that its assumptions about the counterfactual have changed since the consultation stage IA. The central pay rate assumption is now the mid-point between ILO seafarer minimum rates and rates provided by P&O ferries, the latter was the previous central rate. There is also a new approach to the counterfactual in assuming that operators currently paying NMWe would cut wages to compete with lower-cost operators. Both changes increase cost estimates significantly compared to the consultation stage IA.

The IA explains that the change to the central pay rate assumption reflects feedback from consultation. The new counterfactual approach of wages converging to sub-NMWe rates as a result of cost-cutting competition appears particularly significant in impact. It both significantly increases the cost to business and the beneficial impact of the policy. The IA would benefit from discussing further the evidence to support this, particularly where competition from lower cost operators has been in place for some time and other operators have not yet responded by reducing wages, and from describing how this new approach compares to that used by BEIS in their NMW IAs. The IA would also benefit from explaining whether existing lower-cost operators have lower unit labour costs (e.g. as foreign operators not bound by UK NMW rules) or have other cost advantages (e.g. non-wage costs, more workers on minimum wage, etc). This could influence whether a UK firm might compete by compressing differentials without paying less than the NMWe. Finally, the IA would also benefit from demonstrating how this works through in the IA calculations (for example, how many operators cut wages and how fast), in particular clarifying how it interacts with the central pay assumption.

³ <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

SaMBA

The Department has provided a significantly expanded SaMBA since consultation stage. The IA explains that it does not expect SMBs to be directly affected by the proposal. The IA explains that 15 entities are listed as owning a single ro-ro or container vessel but explains that some of these will be subsidiaries of, or ultimately controlled by, larger companies owning multiple vessels. Nevertheless, the IA provides a good discussion of wider potential SMB impacts (for example on employment agencies), disproportionality of impact and why exemption would not be appropriate.

Rationale and options

The IA provides a twin rationale for the proposal: improving seafarers' welfare and providing a level playing field for UK businesses. The IA usefully provides a significantly greater focus on UK-resident seafarers compared to the consultation stage IA, although it explains that data on where seafarers live are limited (paragraphs 2.15 and 2.45). The IA also provides much greater discussion and assessment of impacts on the competitiveness of UK vessel operators (pages 38-39).

The IA notes that “...if the additional costs to business are passed on to UK-based businesses and consumers in the form of higher prices, the policy may indirectly result in a transfer from (mostly) UK business and consumers to (mostly) non-UK seafarers. This would show a negative net present social value to the UK economy in indirect terms.” (paragraph 2.55, page 38). The IA notes that this figure is not monetised because of uncertainty. However, depending on the extent of the pass-through, the cost to UK consumers of higher prices could significantly exceed the higher wages to the relatively small proportion of UK seafarers and the IA would benefit from addressing this issue further.

The IA monetises three options, which vary in terms of scope (threshold frequency of visits to UK ports and types of vessels covered). The IA describes why non-regulatory options and other regulatory variations in scope have been ruled out (pages 10 and 12, respectively). The IA usefully explains why the options available to UK government are limited (page 10) and that the proposal is the “first step” in a wider policy package being taken forward, in particular pursuing multilateral agreements with other countries (paragraphs 1.3 and 1.15).

Cost-benefit analysis

Evidence and data

The IA explains that consultation responses and engagement with stakeholders via workshops and bilateral discussions have been used to test the inputs and assumptions in the consultation stage IA. The IA sets out changes made to the IA that reflect this (paragraph 2.17).

Methodology

As noted above, the IA now includes an estimate of the indirect cost to business of maintaining wage differentials. The IA discusses how this was done, principally at footnote 29 (page 21), which states that the approach is very loosely based on domestic NMW appraisal by BEIS. The IA would benefit from incorporating a fuller and clearer explanation into the main text and setting out any engagement with the BEIS labour markets team on this and other methodological areas (including the new counterfactual discussed above).

Comparison to consultation stage IA estimates

The IA notes that the overall impact of changes to the analysis since consultation stage has been to increase the impacts by around three to four-fold. The main impact adjustments appear to reflect changes to the counterfactual assumptions and the monetisation of wage spillover effects. The IA would benefit from providing further information on the size of each impact change, in particular those relating to the counterfactual.

Risks

The IA usefully includes an expanded section on risks. This covers in some detail important risks to the effectiveness of the policy (pages 47-50). The IA explains that its approach is to address uncertainty through providing a high/low range of assumptions and estimates rather than sensitivity analysis. However, the IA would benefit from sensitivity analysis in places, such as on the approach to the counterfactual.

The proposal does not appear to mandate the use of the powers by SHAs and the IA would benefit from discussing whether (and why) SHAs might choose not to exercise the powers. This could address incentives for SHAs not to use these powers in order to maintain their competitive advantage vis-à-vis other SHAs/ports. The IA would also benefit from discussing potential enforcement difficulties. The IA could also discuss whether there is any provision for delays, whereby vessels have to stay in UK waters longer than expected, and the ability of companies to take action to avoid their workers going over the thresholds, such as by reducing services or reducing/rotating staffing.

Wider impacts

The IA provides good assessment of a range of wider impacts. These include:

- detailed discussion of pass-through of costs to passengers via fares, other consumers via goods prices and businesses via freight prices (pages 32-36);
- trade and investment impacts (page 54);
- a very thorough consideration of competition impacts (pages 55-62); and
- labour market impacts (pages 63-64).

The competition assessment could address whether the proposal could result in operators leaving the most keenly contested market segments.

Following RPC comments at consultation stage, the IA now monetises enforcement costs to the public sector and discusses impacts on taxation.

The IA would benefit from discussing potential impacts of reduced traffic in U.K. waters and harbours if the proposal were to discourage some operators of third-country flagged vessels. The IA could also discuss the potential impact of exchange rate fluctuations on workers' pay.

Monitoring and evaluation plan

The IA provides a clear and proportionate monitoring and evaluation plan. This describes how information to be gathered will be mainly through compliance data and informal stakeholder engagement rather than primary research. The plan sets out a focus on assessing whether risks materialised, in particular to the effectiveness of the policy. The IA would benefit from discussing whether this means monitoring actual pay to see whether workers are being paid at or above NMWe for time spent in UK waters, and the availability of data to measure this.

Regulatory Policy Committee

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