Insurance for unmanned aircraft

Lead department	Department for Transport
Summary of proposal	The proposal will improve and clarify insurance requirements for unmanned aircraft that ensure operators of these aircraft are obliged to take out adequate coverage and that those affected by accidents are protected.
Submission type	Impact assessment (IA) – 5 May 2022
Legislation type	Primary legislation
Implementation date	TBC
Policy stage	Final
RPC reference	RPC-DfT-5196(1)
Opinion type	Formal
Date of issue	24 June 2022

RPC opinion

Rating[1]	**RPC opinion**
Fit for purpose	The analysis is consistent with RPC guidance for primary legislation IAs. The IA includes a sufficient assessment of impacts on small and micro businesses at this stage. The overall cost-benefit analysis would benefit from using illustrative examples and scenario analyses, and a robust EANDCB calculation must be provided for the secondary legislation stage.

Business impact target assessment

	Department assessment	**RPC validated**
Classification	Qualifying regulatory provision	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	Not quantified	Further IA(s) to be submitted at secondary legislation stage for validation of an EANDCB figure
Business impact target (BIT) score	Not quantified	As above
Business net present value	Not quantified	
Overall net present value	Not quantified	

[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. The RPC rating is fit for purpose or not fit for purpose.

RPC summary

Category	Quality	RPC comments
EANDCB	**Green**	The Department's approach to estimating and accounting for impacts on business meets the minimum requirements as set out in RPC guidance on primary legislation IAs[2]. The IA does not include any specific analysis of the EANDCB for this policy. It explains that impacts depend upon policy decisions to be taken at secondary legislation stage and that further IAs will be undertaken at that stage. The RPC considers this to be just about proportionate at this stage. However, the IA(s) for the secondary legislation will need robust figures for the EANDCB to be rated fit for purpose.
Small and micro business assessment (SaMBA)	**Green**	The SaMBA is fit for purpose at the primary legislation stage. Although exact numbers of small and micro business (SMB) operators are not available, the IA provides an overall figure for the number of organisations with Operator IDs, the vast majority of which are expected to be SMBs. However, the IA should cite a source for this assertion and provide more robust figures and SMB analysis for the secondary legislation IA(s). The IA explains why an exemption for SMBs is not being proposed but states that this, along with any mitigations, will be considered in secondary legislation stage IAs, which the RPC looks forward to reviewing.
Rationale and options	**Satisfactory**	The IA makes a satisfactory case for setting primary legislation based on the flexibility to tailor rules, therefore future-proofing them as technology develops. The IA also provides a discussion on non-regulatory options, including guidance and working with industry to encourage best practice.
Cost-benefit analysis	**Weak**	The IA contains a very high-level cost-benefit analysis with no monetisation and very little use of figures otherwise. The IA(s) for the secondary legislation will need much more detailed and quantitative analysis of the options presented (including monetisation where appropriate) to demonstrate evidence-based policymaking.
Wider impacts	**Weak**	The IA includes a brief analysis of a range of wider impacts. The RPC expects to see more detailed assessment of wider impacts in the IA(s) for the secondary legislation.

[2] https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019

Monitoring and evaluation plan	**Satisfactory**	The IA states that the policy will be reviewed on an ongoing basis and that the related secondary legislation will be formally reviewed. The RPC will expect to see more detailed monitoring and evaluation plans in the IA(s) for the secondary legislation, including information about how the success of the policy will be defined and measured.

Summary of proposal

The IA proposes (in its preferred option) to create an enabling power in primary legislation to set clear requirements relating to insurance for unmanned aircraft (UA). Details of the specific requirements would be defined in secondary legislation.

The IA also considers non-regulatory options of guidance and working with industry to encourage best practice. These could also be progressed along with the preferred option.

EANDCB

The IA does not include any specific analysis of the EANDCB for this policy and states that, due to uncertainty at this stage relating to the specific insurance requirements, no monetised costs or benefits have been provided. It explains that impacts on business depend upon policy decisions to be taken at secondary legislation stage and that further impact assessments will be undertaken at that stage.

The RPC considers this to be just about proportionate at this stage because the IA includes a high-level indication of the size of the UA operator and insurance markets and the overall impacts that will fall on them. However, the IA(s) for the secondary legislation will need robust figures for the EANDCB to be rated fit for purpose. This includes monetisation of all of the costs already mentioned in the IA, such as administrative, compliance and familiarisation costs to business.

SaMBA

The SaMBA is fit for purpose at the primary legislation stage. Although exact numbers of small and micro business (SMB) operators are not available, the IA provides an overall figure for the number of organisations with Operator IDs, the vast majority of which are expected to be SMBs. However, the IA should cite a source for this assertion as well as provide more robust figures and SMB analysis for the secondary legislation IA(s).

The SaMBA also reasons that, since SMBs are likely to have smaller fleets of UA, they should not face a disproportionate impact from this proposal.

It is not clear that the proportion of the insurance provider market made up of SMBs would reasonably be the same as the proportion of SMBs overall (paragraph 116 in the IA). This Department should seek to obtain better data for the final IA(s) at the secondary legislation stage.

The IA explains why an exemption for SMBs is not being proposed but states that this, along with any mitigations, will be considered in secondary legislation stage IAs, which the RPC looks forward to reviewing.

Rationale and options

The description of the proposal should be improved in the IA with a more detailed explanation of the different types of UA and their main uses, e.g. drones for photography or deliveries.

The IA explains that, as with commercial aircraft, certain types of risk involving UA need to be insured against as the market continues to grow. This is because the risks involved can fall not only on UA operators but also on third parties. Government intervention can make sure that, if UA operators have appropriate insurance, third parties can be compensated for any damage in the event of an accident.

The IA's preferred option is to create an enabling power in primary legislation to set clear requirements relating to insurance for UA, with details to be specified in secondary legislation.

The IA also provides a discussion on non-regulatory options, including guidance and working with industry to encourage best practice. Evidence from previous consultations shows support for both approaches, with a slight preference for a non-regulatory approach, but a tendency to support primary legislation from leisure users of UA. The IA should clarify whether different options, including non-regulatory ones, will be consulted on for the secondary legislation.

However, the IA makes a satisfactory case for setting primary legislation (option 1) based on the flexibility to tailor rules, therefore future-proofing them as technology develops in this fast-changing area. Clearer rules will also help insurance companies design better insurance products for the market.

The IA would benefit from exploring international evidence of whether other countries have already implemented insurance requirements for UA, or are considering insurance requirements for UA.

Furthermore, the IA should consider the adequacy of an insurance-based framework for handling the range of risks associated with the burgeoning and diversifying use of UAs including:

- the impacts of insurance costs on uptake, innovation, and (in the case of commercial drones) whether this might excessively reduce the wider benefits of drone use compared to a more directly regulatory regime; and
- the 'insurability' of relevant risk, including e.g. the cyber risk.

Cost-benefit analysis

The IA contains a very high-level cost-benefit analysis with no monetisation and very little use of figures otherwise. The analysis of options is therefore qualitative only and the comparison between them is limited to tables setting out whether certain impacts will be beneficial or costly on different parties. It is not clear why the table for the related secondary legislation does not contain further familiarisation costs to operators when this is where the detailed requirements are intended to be set.

The IA needs to be improved with more detailed illustrative examples or scenario analyses reflecting different levels of risk to show the possible impacts on operators, insurance providers and third parties. This would allow the reader to make a more informed decision about the benefits of the different options.

The IA(s) for the secondary legislation will need much more detailed analysis of the options presented (including monetisation where appropriate) to demonstrate evidence-based policymaking.

Wider impacts

The IA includes a brief analysis of a range wider impacts. As with the cost-benefit analysis, this needs to be improved with illustrative examples and scenarios.

The competition assessment mentions that "*barriers to entry into new areas of the insurance market are fairly low for existing insurance firms*" but should also consider any such barriers for new entrants to the market.

The IA mentions that a negative impact on demand could be expected if the insurance requirements increase the cost of leisure users operating unmanned aircraft. This issue and sensitivities could be explored in greater detail in the risks and unintended consequences section in the final IA(s).

The RPC expects to see more detailed assessment of wider impacts in the IA(s) for the secondary legislation.

Monitoring and evaluation plan

The IA states that the policy will be reviewed on an ongoing basis and that the related secondary legislation will be formally reviewed. The IA has already set out some potential plans to close evidence gaps which should prove useful for monitoring and evaluation. These include the issues mentioned above regarding the size of the affected markets as well as current insurance prices and numbers of incidents involving UA.

However, the RPC will expect to see more detailed monitoring and evaluation plans in the IA(s) for the secondary legislation, including information about how the success of the policy will be defined and measured and how frequently the policy will be reviewed.

Regulatory Policy Committee

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