
European Union (Withdrawal Agreement) Bill

Department for Exiting the European Union

RPC rating: not rated at this stage

Overview

The RPC issues opinions on regulatory proposals to help to ensure that the evidence placed before decision-making bodies, including Ministers and Parliament, is sufficient to support their deliberations. Our opinions serve three purposes: to set out clearly, transparently and independently the quality of the evidence supporting the proposal in question; to verify specifically the figures that should be included in the Government's assessment of progress against the Business Impact Target (BIT); and, in the longer term, to improve the quality of the evidence and analysis available to decision makers.

As set out below, there are a number of areas in which the present impact assessment (IA) could benefit from improved evidence, to the level that the RPC would normally expect to see. However, we note that certain elements of this IA have necessarily been undertaken with very little time, leaving the Department very limited opportunities to engage with us and with stakeholders to improve its evidence base.

The European Union (Withdrawal Agreement) Bill (the Bill) may enter Parliament in the next few days for consideration on an accelerated timescale. To fulfil our remit, we are issuing an unrated opinion outlining our independent assessment of where we are content and where we have concerns with the evidence and analysis underpinning this legislation. We have taken an exceptional decision not to rate this IA in recognition of the unique circumstances that have prevented the Department from producing a more substantive impact assessment on all aspects of the Bill.

If significantly more time is available prior to the Parliamentary scrutiny process, we would expect the Department to expand the analysis and resubmit the IA. In those circumstances, we would review the revised IA and, if appropriate, to reissue our opinion.

Description of proposal

The United Kingdom and the European Union have reached agreement (known as the “Withdrawal Agreement”) on the terms on which the UK will leave the EU. This was signed at the EU Council meeting on 17-18 October 2019. For the UK to meet its obligations under the Withdrawal Agreement, the UK Parliament must pass primary legislation to give domestic legal effect to the Agreement. This is also necessary in order to ratify the Withdrawal Agreement, as set out in section 13 of the European Union (Withdrawal) Act 2018. The European Union (Withdrawal Agreement) Bill (referred to here as the Bill), and delegated legislation to be made under it, will be the primary means by which the Withdrawal Agreement is brought into domestic law in the UK, including in the devolved nations of Scotland, Wales and Northern Ireland. The Bill will also be the vehicle for the Government to give effect to the EEA EFTA Separation Agreement (the “EEA Separation Agreement”) between the UK and Norway, Iceland and Liechtenstein (the EEA EFTA States), and the agreement between the UK and Switzerland on citizens’ rights (the “Swiss Separation Agreement”).

To meet the obligations under the Withdrawal Agreement, the EFTA Separation Agreement and the Swiss Separation Agreement, provisions in the Withdrawal Agreement Bill will:

- guarantee the rights of EU citizens, EEA EFTA states’ citizens, and Swiss citizens resident in the UK before the end of the implementation period;
- establish an independent monitoring authority (the IMA) to monitor the implementation and application of the citizens’ rights parts of the Withdrawal Agreement and the EEA Separation Agreement;
- ensure that there is a mechanism by which EU law can continue to apply in the UK as required under the Withdrawal Agreement for the duration of the implementation period;
- create the legal *vires* enabling the UK to settle its rights and obligations as a departing member state through the financial settlement. The Bill itself is an enabler rather than a driver of these payments, which have been agreed as part of the Withdrawal Agreement;
- wind down those ongoing processes that are governed by EU law in EU and EFTA member states once the implementation period finishes; and
- give effect to the Northern Ireland/Ireland Protocol as set out in the Withdrawal Agreement. In particular:
 - Enable alignment of Northern Ireland with the EU on goods (including certain laws for VAT on goods) and apply EU tariffs in Northern Ireland except for movements within the single customs territory of the United

Kingdom, but only for as long as Northern Ireland wishes this system to continue. The Bill also defines the arrangements for determining whether Northern Ireland so wishes;

- Implement dedicated mechanisms to ensure no diminution of rights and equalities protections in Northern Ireland;
- Implement mechanisms to allow the Single Electricity Market to continue in Northern Ireland, albeit in a slightly less efficient fashion;
- Continue state aid rules as presently defined for UK measures affecting trade between Northern Ireland and the EU; and
- Exempt Northern Irish fishermen fishing in UK territorial waters from EU tariffs on goods entering the EU.

The Bill also includes provision for Parliamentary oversight of future negotiations with the EU; in general these are administrative arrangements that are likely to impose (relatively small) costs on Government at this stage. The outcomes of oversight may of course be far-reaching, especially in the case of the commitment to make a statement of non-regression whenever introducing a bill related to workers' rights and give Parliament an opportunity to consider new EU workers' rights legislation after the UK's exit from the EU. These outcomes should, however, be appraised at the point of the relevant decision; the Department argues correctly that the relevant impacts cannot be appraised at this stage; nevertheless it should present as clearly as possible what kinds of impacts are in scope.

Impacts of proposal

The Department primarily assesses impacts against a baseline of the current arrangements (i.e. the expected UK statute book and the obligations applying to the UK at the point of EU exit, including all existing domestic and EU legislation) at the point of the UK leaving the EU (the "*static acquis*"). It also provides a narrative assessment against a 'do nothing/no deal' scenario. Impacts have been assessed over a ten-year period starting in 2019/20.

In the very limited time available between the execution of the Withdrawal Agreement and the introduction of the Bill, the Department has provided a structured, qualitative analysis of the impacts of the new Northern Ireland/Ireland Protocol. This analysis also includes an assessment of the scale of trade between GB and Northern Ireland and a number of relevant unit costs and benefits, but does not monetise any of the impacts it describes.

For the elements that the Department has monetised at this stage, the impact is a net cost of £167.1 million over ten years in present value terms. This consists of

transition costs of £35.5 million and average annual costs of £17.5 million. All other elements and other impacts of the monetised elements are not quantified at this stage.

The main cost is to government and relates to the setting-up (£35.5 million over two years in present value) and running costs (£14.9 million annually) of the IMA. The cost estimates for this have been produced by examining the establishment and ongoing costs of precedent authorities with similar powers, such as the Equalities and Human Rights Commission and the Information Commissioner's Office. The estimates are high-level, but the Department provides a detailed explanation of how they have been derived (pages 22-25). It would be helpful if the Department could explain the extent to which these are likely to be reliable comparators.

The other monetised costs are those likely to be incurred by intellectual property rights holders after the implementation period. In place of EU trademarks, registered and unregistered Community designs and Community plant variety rights, the Government will provide comparable UK trademark, design and plant variety rights at the end of the implementation period. The Department states that rights holders will face additional costs because they will need to pay the relevant UK renewal fees if they wish to keep their UK rights in force when their EU rights are due for renewal. These costs are estimated at around £2.4 million per year or £22.1 million over the appraisal period of 10 years in present value terms. This total includes the costs of: renewing EU trademarks (£16.9 million); design rights (£3.6 million); and international registrations (£1.6 million) (pages 123-128). These figures have been derived using estimates of renewals due, UK business share of these, renewal rates over the appraisal period (all based on either EU Intellectual Property Office (EUIPO) or UK Intellectual Property Office (UK IPO) data) and the average cost of renewal. The Department provides a detailed explanation of how these estimates have been arrived at (page 30).

The Department has not estimated any benefits relative to the current arrangements because the Bill is generally intended to maintain these arrangements in the first instance. The Department, therefore, presents a monetised net present value (NPV) of -£167.1 million. The costs to rights holders are a cost to business and constitute the Department's ten-year business NPV of -£22.1 million and equivalent annual net direct cost to business (EANDCB) of £2.4 million. The RPC notes that the Government expects to derive benefits in the future from the act of leaving the EU, and expects that these will be assessed in appropriate future IAs.

The Department has provided summary tables explaining why it has not been able to monetise the impacts of the many other elements of the Bill, including:

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- the mandatory permit system for frontier workers – the Department argues that the impacts of this will depend on the precise implementation of the scheme which will be covered in secondary legislation;
 - the deportation of EU, EEA EFTA State and Swiss citizens who remain in the UK unlawfully after the implementation period – the Department argues that it is not possible to predict with certainty either the number of persons to be deported or the unit costs of deportation;
 - the eligibility of EU, EEA EFTA State and Swiss citizens who remain in the UK for certain welfare benefits – the Department notes that the impacts of this provision will be strongly dependent on behavioural factors such as uptake rate of benefits by the additional cohort of eligible claimants, and are therefore difficult to predict;
 - payments to the EU to meet the financial settlement obligations under the Withdrawal Agreement – the Department argues that it is not possible to quantify future payments in the baseline scenario, and accordingly that it is not possible to quantify the effects of the Bill;
 - avoided future budget payments from the UK to the EU – the Department argues that this is not a direct result of the Bill;
 - the familiarisation costs that will be incurred by rights holders – the Department believes that these are likely to be limited, and that it would be disproportionate to quantify them.
 - market surveillance – the Department notes that the impact of market surveillance on businesses is likely to increase as a result of the Bill, but argues that it is not able to quantify this impact, as it is dependent on decisions made by businesses and by market surveillance authorities.
 - the new Protocol (preservation of rights and safeguards; single electricity market; state aid; and fisheries) – the Department argues that the impacts of this are dependent on detailed arrangements and will be assessed in more detail when relevant secondary legislation is introduced;
 - The new Protocol (border controls and tariffs) – the Department argues that data on individual movements of goods across the border are not available, and would be required to make an estimate; and
 - possible UK contributions to the EU budget during an extended implementation period – the Department argues that such contributions would only arise in the event that the implementation period is extended; the amount would be subject to negotiation with the EU and is, therefore, not quantifiable.

At this stage, therefore, the RPC is able to validate only the EANDCB presented for those elements of the Bill that have been monetised.

The Department has produced a small and micro business assessment (SaMBA), which focuses mainly on the new Protocol (page 61-62); the Department argues that the other provisions in the Bill are less likely to have disproportionate impacts on small and micro businesses except by virtue of such businesses' general ability to cope with changes in regulation (for example in relation to labour market impacts or changes to lead regulators), or where it is not possible to assess the proportionality of impacts at this stage (for example in the case of changes to competition). The IA acknowledges that familiarisation costs will be more significant for small and micro businesses and notes that most Northern Ireland businesses trading with Ireland are small or micro, providing figures on the breakdown of Northern Ireland businesses trading with Ireland by employee size. The Department also notes that the Government will work with the relevant industry bodies to ensure that any regulatory changes are communicated as early and clearly as possible, and with small businesses particularly in mind.

Quality of submission

The Department submitted an IA on an earlier version of the Bill (referred to here as "the November 2018 IA") to the RPC on 29 November 2018, in anticipation of the introduction of the Bill to Parliament, to implement the previous Withdrawal Agreement between the UK and EU. The RPC issued an opinion to the Department (referred to here as "the December opinion") on 5 December 2018. The November 2018 IA was not published and neither, therefore, was the December opinion.

There have been changes to the Bill subsequent to the November 2018 IA. These changes resulted from the announcement of a 'new Brexit deal' by the then Prime Minister in May 2019 and a new Withdrawal Agreement executed at the EU Council meeting on 17 October 2019, the latter principally to introduce the new Protocol. These new features are reflected in the present IA but have not previously been subject to formal RPC scrutiny.

In the extremely limited time available for RPC scrutiny of the present IA, the RPC's scrutiny has focussed on:

- assessing how far the Department has addressed our previous comments and identifying where the IA would benefit from further improvement in these areas; and
- the quality of the Department's assessment of the impact of the new Protocol.

Assessment of changes to the IA in response to RPC comments

The Department has responded to the comments in the December opinion, setting out how they have been addressed and providing an explanation where they have not. Useful changes have been made to the IA, mainly in terms of additional description of impact and explanation as to why quantification of certain costs is not possible or proportionate. In some of these areas the IA could be improved by addressing the points set out below. The RPC also notes that the Department has adopted the OBR's estimates for the costs of the financial settlement, which have not been updated since July 2018; accordingly, these estimates do not take into account trends in exchange rates since July 2018, and include some assumptions that may no longer hold.

Loss of UK lead authority in certain EU regulatory regimes

The Department states that on exit from the EU the UK will lose the ability to act as a leading authority in certain EU regulatory regimes, such as medicines and chemicals, during the implementation period. The affected UK authorities will not be able to conduct certain assessments, authorisations, examinations, or approvals and will not receive any associated payments for this work (paragraph 31). These authorities will not incur costs associated with carrying out the relevant assessments, authorisations, examinations or approvals, and this may partially offset the impact of not receiving payment for that work. There may be impacts upon businesses in the affected sectors of having to comply with dual (UK and EU) regimes, which should be considered either in this assessment or in the appraisal of relevant secondary legislation. UK authorities ceasing to be leading authorities could also affect how UK interests (including the interests of UK businesses) are weighed in the decisions of these authorities. The IA could benefit from an assessment of these impacts, drawing upon evidence from the UK authorities listed as being affected, and from presenting this analysis in the summary of costs and benefits presented in table 3.2.1, page 14.

Small and micro-business assessment (SaMBA)

The SaMBA considers a number of measures that might mitigate the impact on small and micro businesses, especially in relation to the Protocol. However the IA could benefit from further consideration of the impacts of the Bill as a whole on small and micro businesses, and mitigation of these impacts. In particular, it could usefully set out the impacts on small and micro businesses of: preparation for exit and the continuing uncertainties around future trading arrangements; loss of lead authority

and the costs of engagement with two regulatory regimes (including for example possible costs of establishing EU subsidiaries); and costs around judicial cooperation and future export market access, particularly around early uncertainties. It could also consider the extent to which small and micro businesses might be exempted from some elements of the Bill.

The Department has expanded its assessment of the impacts on small and microbusinesses, introducing a qualitative analysis of the Protocol and some quantitative assessment of the numbers of small businesses affected by the Protocol. This analysis notes that there will be disproportionate impacts on small businesses that trade across the NI/I border, and suggests some areas in which mitigations might be available. It does not quantify the degree of disproportionate impact, nor does it set out clearly the range of possible mitigations and the Department's final approach to mitigation.

The Department also argues that impacts on small and micro businesses of arrangements other than those relating to the new Protocol will be relatively small, as the Bill is generally intended to maintain current arrangements. The Department estimates that impacts compared to a do-nothing baseline will be generally beneficial to businesses but does not quantify them. The RPC commented in the December opinion that the SaMBA could benefit significantly from addressing further the other aspects of the Bill, for example the impact on small and micro businesses of the monetised renewal costs for intellectual property rights holders, and this remains the case. The Department has now explained that the UK IPO is currently unable to disaggregate its client group by business size but that it aims to be able to do so in the future (paragraph 298).

Risk and uncertainty

The IA helpfully now includes a specific section on risks (paragraphs 294-295) but this section could benefit from further discussion of both risk and uncertainty. For example, it could address the possible impacts of the measures relating to intellectual property rights on innovation and market entry. The IA could also benefit from some additional discussion around consequences of regulatory divergence and duplication, for example on biosafety and food security.

The Department has clarified that – given the present legal and constitutional position – leaving the EU without a deal is the most likely alternative outcome to the regulatory proposal that is set out in the IA. The Department has provided a somewhat clearer and more detailed analysis of the impacts of this scenario; the IA could be improved by providing a more explicit and structured assessment of this

and other alternative scenarios. It would also be improved by setting out the impacts of the no-deal scenario and other scenarios against the static acquis baseline so that decision-makers can compare it with the proposals in a straightforward manner. As part of this analysis, the Department should clarify the degree to which the no-deal scenario presented is intended to mitigate adverse impacts and to maximise UK bargaining power in future negotiations. Finally, it should acknowledge the effects on businesses of uncertainty during the transition period in particular, especially in relation to small and micro businesses (SMBs). In this context, we note that it has provided a helpful table setting out the timing and uncertainties surrounding the main provisions of the Bill, which we welcome.

Deportations and immigration appeals

In the December opinion, the RPC suggested using unit costs from existing non-EU/EEA immigration appeals and data/assumptions on the proportion of appeals to the total immigrant population to provide an indication of possible costs from immigration appeals by EU or EEA citizens. The Department has sought further Home Office input and explains that further quantification is not possible at this stage due to uncertainty around numbers of future applications and deportations (paragraph 63). The IA could benefit from providing further discussion of the uncertainties involved, including whether those individuals who have yet to apply to remain in the UK under the EU Settlement Scheme might represent a different cohort to those who have already applied, and potentially face greater difficulties and costs. It might also be possible to make some assumptions about crime rates or to draw on earlier work around Foreign National Prisoners to provide indicative estimates of the costs of deportation, and to present possible unit costs on appeals.

Citizens' rights and the relationship between the Bill and the EU Settlement Scheme

EXPANSION OF ELIGIBILITY TO CERTAIN WELFARE BENEFITS FOR EU, EEA EFTA STATE AND SWISS CITIZENS ONCE THEY ACQUIRE SETTLED STATUS. (PARAGRAPHS 78-81).

The RPC noted in the December opinion that the Department should provide a broad indication of possible scale, or range, of impact in this area, or should explain why such an indication cannot be provided. The Department has argued that any extra rights accruing to settled EU, EEA EFTA State and Swiss citizens come from the operation/process of the EU Settlement Scheme rather than the Bill. The IA could benefit from explaining further the interactions between the Bill and the EU Settlement Scheme in this area, and from referencing how these costs are covered

by the IA on the EU Settlement Scheme. It would also be helpful if the relevant Department could indicate when that IA will be submitted for scrutiny. The present IA could benefit more generally from providing further reassurance that there are no impacts on businesses that have not been accounted for, for example employers' activities in support of individuals' applications for residence status. These assurances should consider small businesses and specialised skills, in particular, and the impacts of churn in specific markets.

RIGHTS RELATED TO RESIDENCE: DEADLINE FOR APPLICATIONS AND TEMPORARY PROTECTION

The IA states that: "*In line with government policy, the Home Office will bring forward an Immigration Bill to repeal free movement from UK law at the end of the implementation period and prepare the way for the future points-based immigration system to be delivered from 2021*" (paragraph 51, page 16). The IA would benefit from an assessment of the costs and benefits to businesses and government resulting from any more complex transitional immigration and cross-border movement systems, and from increased uncertainty, for example in appraisals of relevant secondary legislation, as they are not assessed in the analysis supporting the most recent Immigration Bill.

Market surveillance

The Department notes that, following the end of the implementation period, economic operators will need to demonstrate to market surveillance authorities, as necessary, that their goods should benefit from continued free movement (paragraph 111-112). In the December opinion, the RPC queried the basis for the Department's view that impacts on businesses should be low. The Department has indicated that work undertaken by the Department for Business, Energy and Industrial Strategy (BEIS), together with regulatory policy teams and market surveillance authorities, now suggests that the likelihood of a product being checked would not be comparable to the status quo. The Department explains that the extent to which this Bill would impact the rates of products being checked is currently unknown but there is ongoing work to understand the potential impacts on business. The IA could benefit from incorporating this work

Data and information processed or obtained before the end of the transition period, or on the basis of the Withdrawal Agreement.

The IA states that "*...this title ensures that the standard of protection would never fall below a domestic standard that was 'essentially equivalent' to Union law.*"

(paragraph 146, page 32) The RPC commented in the December opinion that the IA could benefit from providing further discussion of this provision, such as whether this means that the UK would have to maintain the full requirements of the General Data Protection Regulation or other measures due to come into force such as ePrivacy Regulation. The Department has clarified the mechanisms by which it expects that this outcome will be achieved, and argues that the effect of the approach will be to maintain the status quo and avoid placing burdens on businesses that trade both in the UK and the EU as a result of differing data protection standards.

Ongoing judicial cooperation in civil and commercial matters (paragraphs 140-143)

In the December opinion, the RPC noted that the IA could benefit from an assessment of the potential costs of litigation (for businesses and individuals) which could be higher after EU/UK cooperation on judicial matters is “wound down”, as is expected under the Withdrawal Agreement. Cost increases could arise, for example, from litigation over contested jurisdiction, having to defend suits in multiple jurisdictions and EU courts resisting or refusing to enforce UK judgements

The present IA acknowledges that a lack of continued cooperation on judicial matters could lead to additional litigation costs and sets out the likely drivers of these costs, but states that the Government intends to secure continued cooperation on these matters as part of the UK’s future relationship with the EU. It also argues that it is not possible to provide detailed estimates of these costs, but helpfully supplies an example (around insolvency) where some costs have been estimated. In the example provided, the costs are relatively small.

The RPC notes that such future cooperation (and its parameters) would require the agreement of both the UK and the EU, and whether or not business and individuals incur additional litigation costs, or are able to obtain redress, will depend on the detail of any such future agreement and whether or not such cooperation commences at or prior to the end of the transition period.

Union judicial and administrative procedures: competition (paragraph 152)

The Department’s narrative could benefit from a discussion of the loss of reciprocity between UK and EU competition authorities for regulatory cases covering multinational businesses present in both the UK and EU started after the end of the implementation period. As a result of the Bill, such cases will have to be considered

in both the UK and EU, thereby increasing the costs of the UK Competition and Markets Authority. There would also be additional costs to business in responding to both competition authorities.

Financial settlement

The Department has responded effectively to the RPC's comments in this area; the present IA explains clearly why it is not possible to provide a definitive value for the financial settlement at this stage, and describes the range of evidence and estimates available, referring in particular to Annex E of the EU Finances Annual Statement.

The IA could still benefit from describing the robustness and precision of the estimates more clearly, outlining how they have been constructed, and presenting the range of possibilities as clearly as possible where there are uncertainties (perhaps drawing on analysis of a range of scenarios, for example). It would also be helpful if the Department could describe any changes to its estimates since the November 2018 IA.

Appraisal period

Following the RPC's comments in the December opinion, the IA now explains (paragraph 18) why the standard ten-year period to assess costs and benefits has been used, despite the shorter duration of the implementation period but also the very long-term nature of some of the expected impacts. The approach taken seems sensible and proportionate, given the significant uncertainties around the balance between long-term and short-term effects of the Bill. The Department has also provided a table setting out clearly which impacts will arise at what time during the appraisal period, though the fact that most costs are not quantified makes it difficult for the reader to assess the effect of discounting on the balance between the different costs.

Public sector costs

The RPC noted in the December opinion that the IA could benefit from indicative costs of setting up and maintaining the new Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI), possibly by using data from other comparable bodies. The Department also notes that there are likely to be significant public sector costs as a result of activities in relation to the new Protocol; again, the IA could benefit from some quantification of

these costs, possibly based on other comparable regulators as has been done elsewhere in the IA.

Other impact assessments

The IA includes a helpful brief reference (paragraph 220) to further impact assessments to follow. This IA could benefit from clarification that further IAs will be produced on all secondary legislation under the Bill, where required by the better regulation framework, and from providing a list of forthcoming/related IAs (at least as anticipated at this point). This will help to assure Parliament and other stakeholders that the full impacts of the Bill and its dependent legislation will be appraised in due course.

Department's assessment of the impact of the new Protocol

The Department's assessment of the new Protocol is well-structured and clear, and sets out most of the likely impacts of the Protocol. The IA could benefit in qualitative terms by describing more clearly where and when those impacts fall, and whether the Department expects them to be direct or indirect.

The impacts of the elements of the Protocol that address cross-border trade appear from the description provided to be both substantial and direct, and will not be addressed in future impact assessments; the present IA could therefore benefit from a quantification. The RPC understands that it is difficult to obtain detailed data on cross-border movements and that the Department has made considerable efforts to obtain robust data from the relevant statistical authorities. We also note that the Department has presented relevant unit costs where possible. However, we consider that the IA could benefit from assessment of data from sources other than National Statistics, such as those held by hauliers or local administrative data. A fuller analysis could also helpfully draw on other assessments of the impacts of border checks for agri-foods and other goods to provide a high-level estimate of the impacts of the proposals in these areas and to shed light on more specific impacts in particular areas where, for example, mitigation for small and micro businesses might be appropriate or competition impacts might be particularly significant. It might also explain more clearly some of the frictional effects of different tariff regimes, especially in light of UK, NI, Ireland or EU FTAs with third parties.

Wider societal impacts and impacts on civil society organisations

The present IA presents a somewhat limited description of the impacts of the Bill on society as a whole, and does not discuss the impacts on those civil society organisations that might be expected to support citizens affected by the impacts of the Bill. Future impact assessments in support of secondary and subsequent legislation should provide clearer assessments on both points; in this context, the RPC notes that impacts on civil society organisations should be included in assessments for the purpose of the Business Impact Target.

Data collection and post-implementation review

The present IA states that the policy will not be reviewed, arguing that the Bill is a purely technical exercise designed to give effect to the Withdrawal Agreement, and does not present a monitoring and evaluation plan. This approach is unusual given that the policy being implemented is both novel and significant. Given the data gaps described in the IA and the explicit commitment to secondary legislation and assessment as time elapses and more information becomes available, the RPC recommends that the Department set out a monitoring and evaluation plan that would address those gaps and track impacts that are currently too uncertain to assess. This is particularly the case for the new Protocol, where appropriate monitoring and evaluation (for example more detailed monitoring of trade flows) could support appropriate decision-making on the future of the Protocol and of the UK's future trade arrangements.

Additional tests

The Department presents a brief assessment against each of the additional tests that it is best practice to address in appraising regulation. The RPC is pleased to see these assessments completed, especially given the time available, but notes that in most cases the evidence in support of the Department's assessment is somewhat limited. This is particularly the case for the Equality Assessment, which could helpfully assess the impacts on citizens in more depth, and for the Rural-proofing assessment, which is short of available detail given the rural nature of the area and the number of rural businesses affected by the new Protocol.

Departmental assessment

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| Classification | Excluded from business impact target |
| Equivalent annual net direct cost to business (EANDCB) | £2.4 million |
| Business net present value | -£22.1 million |
| Societal net present value | -£167.1 million |

RPC assessment

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| Classification | Non-qualifying regulatory provision (administrative exclusion B: implementing EU Withdrawal Agreement) |
| EANDCB – RPC validated | £2.4 million Validation incomplete at this stage. |
| Small and micro business assessment | Not validated at this stage |

Regulatory Policy Committee