



Department
for Business
Innovation & Skills

**Impact Assessments: Summary
Document**

**Small Business, Enterprise and
Employment Act**

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Contents

Section 1: Introduction	Page 2
Section 2: Business, Enterprise and Growth	Page 4
Section 3: Summary of impacts	Page 5
Section 4: Policy Proposals: rationale, costs and benefits	Page 9
4.1: Access to finance	Page 9
4.2: Regulatory Reform	Page 15
4.3: Pubs Code and Adjudicator	Page 16
4.4: Companies: Transparency	Page 17
4.5: Removal of onerous company filing requirements	Page 18
4.6: Directors' Disqualification	Page 19
4.7: Insolvency	Page 22
4.8: Employment Law Reform	Page 25
Annexes	Page 29

Section 1: Introduction

1. In December 2013 the Government published *Small Business: Great Ambition*, recognising the vital contribution that small businesses make to the UK economy and national prosperity, by providing half of private sector jobs and a third of turnover.
2. The statement included a number of commitments to make it easier for small businesses to establish and grow in the UK. While many of these commitments have been taken forward without legislation, a number of them will be delivered through the *Small Business, Enterprise and Employment Act* alongside additional measures to ensure that the UK is a great place to do business.
3. The Government attaches particular importance to supporting small businesses for the following reasons:
 - they include many high growth firms, many of them young firms, which drive economic growth through intensifying competition and innovation and making a disproportionately large contribution to job creation; and
 - small businesses have shown great resilience through the recession, but as the UK economy recovers, there is a pressing need to make the best use of their potential to expand.
4. Through the *Small Business, Enterprise and Employment Act*, the Government is improving the wider business environment in which all businesses, particularly small businesses, operate. This includes measures to:
 - **improve companies' payment practices** so that small businesses have more information on what to expect from them, can negotiate fair terms and ensure that their invoices are paid on time so they are not out of pocket;
 - **improve access to finance through increasing the availability and sources of investment for small businesses**, so that they can fund their growth; improve access to credit by allowing HMRC to provide non-financial VAT registration data to approved parties increasing the reliability to credit reports; and the introduction of 'Cheque Imaging', giving the added option of depositing cheques remotely via Smartphone or tablet thus enabling a faster clearing cycle, meaning businesses receive their funds more quickly;
 - **assist small business expansion overseas**, increasing the support available from UK Export Finance and widening their powers to support UK exports and exporters, making it easier for all businesses, regardless of size, to expand in the international marketplace; and also improving access to exporter data, providing greater visibility for UK exporters in the global market place;
 - **cut down on red-tape** by ensuring that regulations affecting business are reviewed frequently and remain effective. Unnecessary regulation gets in the way of doing business, so the Act will require a target to be published for the removal of regulatory burdens in each parliamentary term, including transparent reporting on progress, meaning future Governments remain committed to reducing burdens, enabling small firms to grow and get on with doing business;
 - **streamline public procurement** to remove barriers and help small business gain fair access to the £230bn public procurement market, through making sure procurers run an efficient process, accept electronic invoices, do not charge for bid information, and do proper pre-market engagement. It will also make it easier for small businesses to raise concerns about public procurement practices, ensuring these are small business friendly;
 - **helping home businesses** by removing the incentive for residential landlords to prevent their tenants operating a business from the property they rent;

- **introduce a Pubs Code and Adjudicator** to govern the relationship between large pub owning companies and their tied tenants, bringing fairness to the small businesses that run 13,000 or so tied pubs across England and Wales;
- **promote a prosperous and growing childcare market** which meets the needs of working families and reduces bureaucratic administrative burdens including: supporting the introduction of the Early Years Pupil Premium for disadvantaged three- and four-year-olds in April 2015; removing the requirement for schools to register separately when accepting two-year-olds; and giving registered childminders more flexibility about the premises from which they can operate.
- **provide new and improved information on learning outcomes** by tracking students through education into the labour market; identifying which schools and colleges best enable their students to progress to positive destinations and sustainable employment; and giving a fuller understanding of the impact of education choices on lifetime labour market outcomes;
- **enhance the reputation of the UK as a trusted and fair place to do business**, increasing transparency around who owns and controls UK companies and helping deter and sanction those who hide their interest in UK companies to facilitate illegal activities or who otherwise fall short of expected standards of behaviour;
- **strengthen the rules on director disqualifications** to widen the matters of misconduct courts must take into account when disqualifying, including conduct in overseas companies, and measures to help creditors recoup losses resulting from director misconduct;
- **streamline insolvency law** to remove unnecessary costs and ensure effective oversight of insolvency practitioners so they deliver their services at a fair and reasonable cost that reflects the work undertaken;
- build on the progress made through the voluntary approach to **gender equality reporting**;
- ensure a more systematic processes across all prescribed bodies in the way **public interest disclosures are handled**;
- **improve the culture of the NHS in respect to staff who raise concerns** and to encourage NHS organisations to support staff that wish to do so;
- **deter employers from breaking National Minimum Wage legislation** by setting the maximum penalty for under payment to be imposed on employers on a **per worker** basis;
- **stop abuse of zero hours contracts** by preventing the inclusion of ‘exclusivity clauses’ which stop individuals from working for another employer, even if the current employer is offering no work;
- **reform Employment Tribunals** by encouraging more efficient management of Tribunal postponements in order to reduce delay and cost, and will introduce a penalty to ensure that Employment Tribunal awards are paid;
- **introduce a recovery mechanism** to ensure the recovery of compensation payments **in the public sector** when high-earners re-join the same part of the public sector within a year of them being made redundant; and
- support UK Coal Production Limited, UK Coal Thoresby Limited and UK Coal Kellingley Limited to meet their **concessionary fuel obligations to members of their workforce**.

5. This document is structured as follows:

- **Section 2** provides background information on how business growth takes place and the role of the wider business environment, which the *Small Business, Enterprise and Employment Act* seeks to improve.
- **Section 3** provides an assessment of the overall impact of the Act.
- **Section 4** provides additional detail on rationale, costs and benefits of the measures in the Act which are accompanied by individual Impact Assessments.
- **Annex A** provides a table of all of the measures contained within the Act.
- **Annex B** provides a table of Net Present Values of measures accompanied by Impact Assessments.

Section 2: Businesses, Enterprise and Growth

Importance of small businesses for growth

6. Small businesses drive economic growth by stimulating innovation and, by acting as a competitive spur to existing businesses¹. This occurs through the process of 'productive churn', where new entrants and existing firms that become more and more enterprising (with new ideas for products and processes) win market share and less productive businesses exit the market. As global competition intensifies, the ability of businesses and individuals to identify and take advantage of entrepreneurial opportunities becomes increasingly important.

7. Small businesses also contribute to growth by making a disproportionately large contribution to job creation. Research by Anyadike-Danes, Bonner and Hart (2011) finds that the smallest firms have been increasing their share of total employment year on year and in 2010 their share was triple that in 1998². Single employee firms increased from three per cent of the total employment in 1998 to 10 per cent in 2010, while the share of firms with over 250 employees fell from 49 per cent to 40 per cent over the same period.

8. While small businesses have a critical role in driving economic growth, it is a small proportion of these businesses which are responsible for much of the impact. Recent research, which covers 17 OECD countries (and Brazil) over the 2001-11 period, finds that it is young firms – predominantly small – that make a disproportionate contribution to job creation, confirming recent evidence for the United States³. Furthermore, it is this subset of young firms within small businesses that are likely to display the highest job growth rates.

The Role of Government

9. At the same time, the wider business environment shapes the context within which businesses operate and hence their incentives to invest and grow. This encompasses physical infrastructure, market frameworks, institutions and regulations.

10. This can involve actions by Government and other institutions in areas such as:

- Broad regulatory frameworks, including competition, corporate governance and insolvency, which are particularly important in both setting the rules of the game within which businesses operate and which together reinforce productivity gains from firm entry and exit;
- Human capital (education, flexible labour markets) where action can help to facilitate better matching of workers to the right jobs;
- Ease of access to finance, which is particularly important for small and medium sized businesses which may not be able to tap into the right level of finance if the market is left to its own devices;
- Trade policy (facilitating access to markets) where small and medium sized businesses often do not have resources to prepare themselves for entering new markets, and may either have insufficient information of the benefits and costs of exporting, or may be unable to internalise the wider productivity benefits that may accrue to other firms from exporting; and
- Public Procurement: where Government can offer a guaranteed market and hence use its position to demand that the goods and services it procures are, for example, innovative,

¹ BIS Analysis Paper 2 (December 2013): SMEs: The Key Enablers of Business Success and the Economic Rationale for Government Intervention

² Anyadike-Danes, Bonner and Hart (2011) "Job Creation and Destruction in the UK: 1998 – 2010"

³ Criscuolo, C., P. N. Gal and C. Menon (2014), "The Dynamics of Employment Growth: New Evidence from 18 Countries", *OECD Science, Technology and Industry Policy Papers*, No. 14, OECD Publishing.
<http://dx.doi.org/10.1787/5jz417hj6hg6-en>

triggering suppliers to offer innovative solutions. Good public procurement will also ensure that smaller businesses have an opportunity to compete successfully for contracts⁴.

11. The importance of improving the wider conditions within which businesses operate is emphasised by BIS analysis which suggests that small and medium sized businesses are more likely to report the wider business environment as the main obstacle to their success⁵.

12. Measures in the Act seek to address market failures and regulatory failures in a number of these areas of the wider business environment that lead to the right outcomes in terms of growth, prosperity and wider social considerations.

Section 3: Summary of impacts

13. Alongside this summary document the Government has published individual Impact Assessments for all measures where a significant impact on business has been identified. These provide the rationale, options, costs and benefits in detail, in line with the Government's Better Regulation Framework Manual.

14. Impact Assessments have not been produced for some measures for the following reasons:

- the direct costs to business of these measures are small or negligible;
- the measures are deregulatory in nature; and/or
- the measures do not have any impact on business unless they are brought into force by secondary legislation and Impact Assessments will be produced at that time.

15. The measures for which Impact Assessments have not been produced are outside the scope of this document. However, where possible we include available analysis underpinning such measures to present as complete a picture of the Act as possible. It should be noted that it has not been possible to quantify all the benefits of the Act due to methodological difficulties or a lack of evidence. These issues are discussed in the relevant individual Impact Assessments.

16. The Act does include measures that have costs on business, particularly the transparency measures in company law. However, in providing an assessment of the overall impact of the Act it is important to differentiate between:

- Measures which are undertaken by the Government to improve the environment for businesses to thrive and grow; and
- Measures which the Government needs to implement in order to meet its international commitments, such as the G8 commitments on transparency and trust. These measures have been developed in a way to minimise the additional costs to business. Extensive consultation with business and other interested parties has been conducted to ensure that the measures are implemented in the most effective way. However, these measures are not in scope of the Government's "One-In-Two-Out" rule, which ensures that regulations are offset by a reduction in burdens elsewhere.

17. The net present values of the measures (ten year appraisal period) in this Act, which reflects the quantified balance between total costs and benefits to all society, are contained in Annex B. A supplementary approach is to examine the costs and benefits to particular sections

⁴ The Government has set an aspiration that 25% of central government procurement spend (by value), flows to small and medium sized businesses directly and through the supply chain, by 2015. Overall government has increased its direct spend with small and medium sized businesses from 6.5% in 2009/10 to 10.5% in 2012/13. Figures from government's largest suppliers have also identified £4bn (9.4%) of indirect spend flowing to small and medium sized businesses (Cabinet Office, 2013).

⁵ BIS Analysis Paper 2 (December 2013): SMEs: The Key Enablers of Business Success and the Economic Rationale for Government Intervention

of society. One such measure is the Equivalent Annual Net Cost to Business (EANCB) which weighs the costs and benefits to businesses alone, and which is the focus of this section⁶.

Measures which are undertaken by the Government to improve the environment for businesses to thrive and grow

18. The measures that Government is taking to improve the business environment have a quantified annual net benefit to business of £115.7m (Figure 2) and a Net Present Value of £1,074m⁷ to society as a whole. These measures include significant average annual deregulatory savings including £13.8 m (net) from removal of onerous company filing requirements and £11.6m (net) from removal of outdated insolvency requirements (of which £2.1m will be delivered in 2015 and £10.1m in 2016).

19. In addition, the net benefit has been augmented by a measure in the Act, which is expected to be implemented in 2016. This measure will modernise outdated aspects of cheques legislation, so that the bank industry can introduce cheque imaging to the UK. The quantified annual net benefit to business is £93.5m as a result of improvements in the efficiency of the banking system.

20. The following measures which should yield significant benefits for small business. They include:

- Measures to improve access to finance for financially constrained firms that should generate growth and productivity benefits in the long-term.
- Enabling registered childcare providers to register more than one set of suitable premises in a single process in which they intend to offer childcare (rather than submitting separate registration applications for each set of premises), and to notify Ofsted of any new premises without completing a further registration process. This would introduce greater flexibility for providers, encouraging providers to set up new, or expanding existing, provision and reduce the burden of registration.
- In addition, small businesses which operate as tied pub tenants should receive fairer treatment from pub companies which tend to be large businesses.

⁶ Better Regulation Framework Manual (July 2013), "The EANCB of a regulation is defined as the annualised value of the present value of net costs to business and civil society organisations. This includes both annually recurring net costs and net transitional costs that occur as a result of the regulation being introduced / removed / simplified".

⁷ This total NPV figure combines a number of underlying assessments for the measures in the Small Business, Enterprise and Employment Act. These underlying estimates have been standardised according to the price year and present value year of 2013.

Figure 2. Summary of Identified Direct Impacts on Business excluding international commitments (Equivalent Annual Net Costs to Business (EANCB))/£m

	Costs	Benefits	In scope of One In Two Out
Mandating data sharing on credit	1.6		Yes
Pubs Code and Adjudicator	2.8 ⁸		Yes
Abolition of onerous company filing requirements	6.0	19.8	Yes
Insolvency Service Red Tape Challenge	0.7	12.3	Yes
Update the process for reporting director misconduct	0.1	3.5	Yes
Regulating Insolvency Practitioners	1.8		Yes
Giving the court and Secretary of State (SoS) a power to make a compensatory award against a director	0.1		No
Penalty for companies that do not pay employment tribunal awards	0.1		Yes
Increasing time limit for disqualification action	0.1		No
Enabling Liquidators and Administrators to assign to third parties certain rights of action that only they can bring under the Insolvency Act 1986 and to extend the right to bring fraudulent and wrongful trading actions to an administrator.	0.1		Yes
Protecting the market from individuals who have been convicted overseas	0.1		No
Banning exclusivity contracts in zero hours contracts	0.5	0.6	Yes
Amendment of outdated cheque clearing legislation to allow cheque imaging	3.3	96.8	Yes
Total	17.3 (a)	133.0 (b)	
Total Net Benefit to Business (b - a)		115.7	

21. The Act also supports the Government’s regulatory reform agenda to support long-term growth through the following measures to better ensure the control of and better targeting of regulation:

- by creating a statutory framework for managing and reporting of the economic impacts of new regulation on business and civil society organisations. At present there is transparent reporting on performance on the Government’s “One-In-Two-Out” framework to control the costs of regulation through the Statement of New Regulation, published every six months, including independent verification of burdens by the independent Regulatory Policy Committee. The proposals in the Act will ensure that these disciplines around regulatory management are

⁸ The estimated net cost to business of £2.8m is likely to increase by around £0.7m due to the reinstatement of parallel rent assessments for existing tenants. An enactment stage IA will be validated by the Regulatory Policy Committee in due course. If the increase in cost is higher than £0.7m the summary Act IA will be published again.

maintained. However decisions on the choice of target, together with its scope and detailed methodology will be made by the Government of the day;

- By creating a statutory obligation on Ministers to include a provision for periodic review when introducing legislation affecting business, except in circumstances where a review is not appropriate⁹; and
- By creating statutory definitions for the terms “small business” and “micro business”, based on the widely used EU definition. Doing so will enable these definitions to be used in other legislation, for example where smaller businesses are exempted from new regulatory obligations.

Measures which the Government needs to implement in order to meet its international commitments, such as the G8 commitments on transparency and trust.

22. The Act will also implement measures to meet its international G8 commitments on transparency and trust. These measures will increase corporate transparency, reducing opportunities for crime, which in turn could help support conditions for growth. It has not been possible to quantify the benefits of these measures. Hence these measures are estimated to have a quantified net cost (on an equivalent annualised basis) to business of £102m (Figure 3) and a Net Present Value of -£1,059m to society¹⁰. This is largely driven by the measure to set up a central registry of people with significant control over a company to enhance transparency around the ultimate owners and controllers of UK companies. The measure requires companies to familiarise themselves and comply with requirements to identify, collect, process and update reporting information on their ultimate owners and controllers to Companies House. The costs of the measures in this package - £470m one-off costs and £78m annually recurring costs - should be seen as an investment in improving the UK’s international reputation for doing business and promoting good corporate behaviour, leading to improved economic growth and productivity outcomes in the long-term.

Figure 3. Summary of Direct Impacts on business from international commitments (Equivalent Annual Net Costs to Business (EANCB))/£m

	Costs	Benefits	In scope of One In Two Out
Companies: Transparency – register of people with significant control	97.5	Not Quantified	No
Companies: Transparency – corporate opacity through company directors	4.5	Not Quantified	No
Companies: Transparency – prohibition of bearer shares	0.1	Not Quantified	No
Total Net Cost to Business (Total of the three measures)	102.1		

⁹ The Act strengthens existing arrangements for ensuring that new regulations affecting business are subject to periodic review. In 2011, the Government set out its policy requiring a statutory review provision to be included in certain categories of new legislation, placing a legal obligation on the relevant Minister to carry out a review of the legislation and publish a report setting out the conclusions within five years of the legislation coming into force. There are now several hundred pieces of legislation in force that contain such a provision.

¹⁰ The total net present value standardised to the present value base year of 2013 and price base year of 2013. The total net present value in the underlying Impact Assessments is -£1,088m for register of people with significant control, -£1.3m for prohibiting bearer shares and -£42m for corporate opacity through company directors.

Section 4: Policy Proposals: rationale, costs and benefits

23. The rationale for these different proposals, and the respective cost and benefits of these measures are summarised below and are discussed in more detail in the individual impact assessments which accompany this summary document.

4.1. Access to finance

24. Well-functioning capital markets both facilitate business start-ups and ensure that existing businesses are able to access the capital necessary to expand and reach their potential. Small businesses that lack access to funds may not be able to generate new technologies or new ways of operating, even if they have the technical knowledge to do so.

25. Most businesses can obtain the finance they need, but market failures mainly relating to asymmetric or imperfect information affect the supply of finance to small and medium sized businesses¹¹. Finance providers often have imperfect information on the likely returns to their funding, as they are less aware of the ability of business owner-managers applying for funds and the quality of their business propositions, than the owner-managers themselves. As a result, finance providers tend to rely on the existence of collateral and proven track record in business, resulting in smaller businesses in particular being refused finance, which is sub-optimal for economic growth.

26. In addition, there are information failures affecting the demand for finance. Small and medium sized businesses may not fully understand the potential benefits to their business of raising finance or their likely chance of success in gaining finance, which ultimately means they do not apply. Of the 79 per cent of small and medium sized business employers not applying for finance in 2013-14, 13 per cent had a need for it and one of reasons these businesses did not apply for it was the expectation of rejection (44 per cent)¹². Other survey evidence shows a small but significant proportion of small and medium sized businesses are discouraged from applying for finance because they think they will be rejected¹³.

27. This section covers three Act measures: Mandating data sharing by credit reference agencies, helping to match small and medium sized businesses rejected for finance with alternative lenders and the amendment of outdated cheque clearing legislation to allow for cheque imaging.

Mandating data sharing by credit reference agencies

28. At Budget 2013 the Government announced that it would investigate options for improving access to small/medium sized business credit data to make it easier for newer lenders to assess loans to smaller businesses. The Government then announced in the Autumn Statement that it would consult on proposals to require banks to share information on their small/medium sized business customers with other lenders through Credit Reference Agencies (CRAs).

29. When assessing the creditworthiness of small and medium sized businesses with a view to making a loan, an important source of information for the lender is a business' past financial

¹¹ These market failures affect a small proportion of viable businesses. There are also some businesses which are not commercially viable, for instance because they have inefficient production processes or inferior products, and there are sound economic reasons why these businesses have difficulties raising finance.

¹² BIS Small Business Survey, 2014

¹³ The SME Finance Monitor defines discouragement as "those that have been put off, either directly (they made informal enquiries of the bank and were put off) or indirectly (they thought they would be turned down by the bank so did not ask)."

performance. This information is, however, often held by the bank that provides the business' current account and is not widely shared. Challenger banks and alternative finance providers therefore do not have access to the same level of information as the bank with which the business already has a relationship. In the UK CRAs provide the infrastructure through which lenders share credit data on a voluntary and reciprocal basis. This system generally works well - the UK receives the highest ranking available from the World Bank for depth of available credit information. However, the current system can produce barriers to entry for new lenders and alternative finance providers.

30. This is because certain data (notably current account data) is not widely shared by banks and, where it is, there is not equal access to it for alternative finance providers. This is because the data is shared within closed groups which only certain lenders have access to. This represents a considerable barrier to entry for new lenders and alternative finance providers.

31. The problem of a lack of available credit data has been highlighted by a range of informed comment on small and medium sized businesses access to finance. The Office of Fair Trading, the Competition Commission and the 'Boosting Finance Options For Business' Review, headed by Tim Breedon, have all highlighted a lack of information about the creditworthiness of small and medium sized businesses as a potential barrier to competition in the small and medium sized business banking market in particular.

32. The Government confirmed at Budget 2014 that it would proceed with legislation.

33. The proposals are intended to improve the ability of challenger banks and alternative finance providers to conduct accurate risk assessments and, by levelling the playing field between providers, make it easier for small and medium sized business to seek a loan from a lender other than their bank. A better understanding of the small and medium sized business sector should also stimulate competition and innovation in the market, improving the cost and quality of services offered.

34. The Government proposes that:

- Designated banks share data on their small and medium sized business customers with designated Credit Reference Agencies (CRAs). This data will only be shared with a CRA where the business has signed terms and conditions that allow for that data to be shared.
- As outlined in the consultation document, the major banks account for the majority of small and medium sized business lending and consequently hold the majority of the data that should be shared. Consultation responses highlighted that for small lenders, the cost of having to establish relationships with multiple CRAs could be disproportionately burdensome and so itself act as a barrier to entry in the small and medium sized business lending market.
- The Government will therefore designate those banks that account for the majority of small and medium sized business lending on the advice of the Bank of England. Capturing these banks achieves the policy objective of opening up competition in small and medium sized business lending, without imposing the burden of sharing data with multiple CRAs on smaller credit providers.
- Designated banks will need to know which CRAs they are obliged to share data with. It is also essential that the data must also only go to CRAs that will use it properly and which have secure systems and safeguards against misuse. HM Treasury will therefore designate those CRAs that will have access to the data, on advice from the British Business Bank.
- Designated CRAs will have to ensure equal access to that data for any lender which has gained consent from the business on which it is requesting data. This will remove the current barrier whereby lenders that do not offer certain products (for example business current accounts) are prevented from benefitting from the same level of current account data shared by

other lenders as a result. The lender requesting data will also need to commit to sharing data on the credit facilities it provides. In order to assist new entrants, the legislation will specify that a lender will be able to receive data for one year after having committed to share data on its own small/medium business customers.

- The data to be shared will be set out in the legislation. It will include payment performance data on loans, credit cards and business current accounts.
- The legislation will be enforced by the Financial Conduct Authority (FCA). Because the provision of credit data on companies is not a regulated activity under the Financial Services and Markets Act, the legislation will create a new obligation on the FCA of enforcing the legislation. The FCA will be responsible for ensuring that designated banks are sharing data and that designated CRAs are ensuring equal access to it.

Policy Proposal	Benefits	Costs
<p>Where the small or medium sized business in question has agreed to their data being shared, designated banks will be required to share credit data on that customer with designated CRAs.</p> <p>Designated CRAs will be required to ensure that there is equal access to this data for all lenders that have gained consent from the small/medium business customer on which it is requesting data. The lender requesting data will also need to commit to sharing data on the credit facilities it provides in order to access the data.</p>	<ol style="list-style-type: none"> 1. Improved data transparency and sharing would lead to a more diverse credit market for small and medium sized businesses by increasing competition for the provision of credit. Increased availability of credit and more competitive pricing of credit for small and medium sized businesses may lead to productivity and growth benefits for the businesses and wider economy. This will improve economic efficiency and could raise benefits from additional investment and economic growth in the UK. 2. Reduced barriers to entry in the lending market for small and medium sized businesses will benefit new market entrants and smaller market participants. 3. Improved data will enable lenders to better assess the credit risk of small and medium sized businesses. The reduction in information asymmetry could reduce prices and also reduce losses to lenders associated with defaulting customers. 4. Improved competition in small and medium sized business credit markets would improve the resource allocation of capital in the UK economy. This would benefit the productivity of the UK economy and economic growth. 5. There could be benefits from financial deepening as more transparency on risk in financial products could enable products such as securitisation and more sophisticated transformation and diversification of financial risk, making small and medium sized business loans more attractive. This would make the allocation of credit more efficient. 6. There could be increased competition in the CRA market 	<ol style="list-style-type: none"> 1. Operational costs for banks designated by HM Treasury of sharing the additional data with the additional data with designated CRAs. 2. CRAs will be required to make systems changes to enable them to receive and process the additional data, and share the data with credit providers on an equal basis.

Helping to match small and medium sized businesses rejected for finance with alternative lenders

35. At Budget 2014, the Government announced that it would consult on helping to match rejected small and medium sized business applicants with alternative providers of finance. The consultation was launched on 28 March 2014 and closed on 25 April 2014, and asked for views on whether, and if so how, the Government should legislate for a mandated process whereby lenders to small and medium sized businesses would be required to share information on such businesses they reject for finance, to help facilitate those business securing alternative financing opportunities.

36. Anecdotal evidence has long suggested that most small and medium sized businesses only approach the largest banks for finance, and at present the largest four banks account for over 80% of UK small and medium sized businesses' main banking relationships.¹⁴ The question was tested in the study 'Small and medium-sized Enterprise (SME) Journey towards raising external finance', October 2013, by the Department of Business, Innovation and Skills (BIS)/BMG Research¹⁵, which estimated that the majority (71%) of businesses who seek funding only approach one provider. The study also noted that over half of such businesses that sought finance in the past three years went directly to their main bank.

37. Although a large number of applications are rejected – in the case of first time small and medium sized business borrowers interim data for 2014 showed the rejection rate was 43%¹⁶ - it is likely that a proportion of these are viable and are rejected simply because they do not meet the risk profiles of the largest banks. There are often challenger banks and alternative finance providers with different business models that may be willing to lend to these small and medium sized businesses.

38. Although the largest banks will sometimes refer such businesses on (e.g. to brokers or Community Development Finance Associations), this is not happening systematically. And although there are challenger banks and other providers of finance that may be willing to make a loan, most small and medium sized businesses do not consider these alternatives, and the challenger banks and other finance providers do not currently have a way to identify which small and medium sized businesses are seeking finance. The BIS/BMG Research study found that of those small and medium sized businesses that were turned down for finance, were offered a smaller amount, or who rejected the terms and conditions of their offer, 37% gave up on their plans¹⁷.

39. This is a market failure of imperfect information, resulting in small and medium sized businesses that are viable financial propositions not receiving the finance they need, and which they might obtain in a better functioning market.

40. The Government published a summary of responses document for its consultation on 6 August 2014, which confirmed widespread support for a mandated process, and that Government would process with legislation.

41. The Government proposes that:

¹⁴ http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/shared_ofc/markets-work/sme-update.pdf

¹⁵ <http://british-business-bank.co.uk/wp-content/uploads/2013/10/SME-Journey-Towards-Raising-Finance.pdf>

¹⁶ SME Finance Monitor q4 2014: The year in review. An independent report by BDRC continental, February 201. <http://www.sme-finance-monitor.co.uk/>

¹⁷ <http://british-business-bank.co.uk/wp-content/uploads/2013/10/SME-Journey-Towards-Raising-Finance.pdf>

- The requirement to forward on small and medium sized businesses that are rejected for finance captures the largest UK lenders to small and medium sized businesses, and the majority of lending to UK small and medium sized businesses – the same population as for small and medium sized businesses Credit Data.
- Information on small and medium sized businesses is forwarded to private sector platforms that will be designated by the Government on the basis of meeting clear minimum standards that focus on ensuring that these businesses are in control and properly protected throughout the process.
- The information shared include:
 - the business name, address, and contact details
 - the amount of finance requested
 - the type of finance requested
 - the business legal structure
 - how many months/years of trading revenue the business has
 - the date by which the business needs finance
- That the requirement captures all small and medium sized business lending products offered by large banks to ensure that all businesses that are rejected for finance by the largest UK small and medium sized business lenders are given the option to benefit from this policy.
- The Government will ensure that small and medium sized businesses using designated platforms are properly protected through a robust designation criteria and oversight regime. This includes a role for the FCA in ensuring fair access to platforms for small and medium sized business lenders, and provision for sole traders and micro businesses to have recourse to the Financial Ombudsman Service when dealing with designated platforms.

Policy Proposal	Benefits	Costs
<p>SMEs (Small and Medium sized Enterprises) that have been rejected for finance will be forwarded on to platforms that will help them be linked up with alternative lending opportunities. The requirement to forward on SMEs that are rejected for finance will capture the largest UK SME lenders, and the majority of lending to UK SMEs. SMEs' information will be forwarded to private sector platforms that will be designated by the Government on the basis of these platforms meeting clear minimum standards that focus on ensuring that SMEs are in control and properly protected throughout the process.</p>	<p>1. Small businesses will benefit from improved access to alternative finance providers. A proportion of small businesses that previously would not have got finance from their bank may secure finance from an alternative finance provider. Additionally, greater competition could spur innovation and product enhancement amongst providers, as well as platform(s) potentially reducing costs of origination (see below). These benefits could be passed on to business.</p> <p>2. Lenders, particularly smaller providers who currently face barriers to their ability to compete, will benefit from increased opportunities to compete for smaller business customers. In addition, the creation of platform(s) will likely improve market visibility and awareness for alternative lenders, both through word of mouth and if platform(s) created have a public facing presence.</p> <p>3. The total cost of a financial</p>	<p>1. Banks may face a one-off cost of any additional IT infrastructure or processes that may be required to collate and transmit data needed for the process. Banks will also incur costs from familiarising their staff with the new arrangements. Banks will also incur an ongoing cost of transmitting SMEs' information to designated platforms.</p> <p>2. There are likely to be one-off and ongoing costs for platforms in meeting the designation criteria – for example, platforms will need to put in place appropriate systems to protect businesses' data, be able to provide fair access to their services, and will need to ensure they are able to report to Government as required. However, no platform will be required to seek designation. Therefore, we anticipate that potential platform providers will only choose to incur these costs if they consider it to be commercially beneficial to their business.</p>

	<p>product includes the cost of acquisition and origination costs which are passed on to customers in the form of interest rates or charges. Based on discussions with industry stakeholders, these acquisition and origination costs are made up of the costs of marketing, product preparation, targeting customers, market research of customer base, application preparation, and manpower hours on securing the individual lending opportunity. If the information sharing system eases the process of origination, then many of these costs will be significantly reduced. These costs will be reduced for major players as well as for smaller providers who may face much larger proportionate costs of origination than those with economies of scale (due to imbalance of scale and sophistication).</p> <p>3. Platform providers will generate profits from commercial relationships with lenders. Mandating referrals is expected to generate a major increase in traffic for platform(s) should they secure designated status, supporting the development of this market. All platforms are likely to experience some benefits owing to the increased visibility of this model as part of the finance landscape.</p>	<p>3. The Government will incur ongoing costs relating to the regulatory oversight of the referrals system. The Government will also incur costs related to the designation process, reporting requirements, and compliance.</p> <p>4. The Government's proposal is that referrals should be implemented through third-party providers; we anticipate these will emerge from the private sector. In order to generate profit, it is likely that platforms will charge alternative finance providers (whether via subscription or on a per transaction basis) to access business data in order to make expressions of interest in providing finance. These costs will be encountered voluntarily and only if alternative finance providers view this as a commercially viable option for their business.</p>
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Amendment of outdated cheque clearing legislation to enable the introduction of cheque imaging in the UK

42. The Government, through the Act, is proposing to modernise outdated aspects of cheque clearing legislation, so that the banking industry can introduce cheque imaging in the UK. Cheque imaging will speed up cheque processing times, by enabling a digital image of a cheque to be sent for clearing, rather than the paper instrument itself. The Act will have the effect of removing outdated statutory provisions that hitherto impose great financial cost, administrative inconvenience and unnecessary inefficiency upon the banking sector.

43. According to the Impact Assessment it is estimated that cheque imaging should reduce total industry costs, generating net savings in the order of £93.5m per annum to the banking sector. Business and voluntary sectors will benefit from faster cheque clearing times and from the improved choice and convenience in ways to pay, with new options to deposit cheques by smartphone, scanner or other devices. For customers in rural areas or with limited mobility, this expansion of choice may help overcome barriers to financial inclusion. Particular benefits will accrue to small and micro businesses and charities, which continue to depend heavily on

cheque payments and generally have tighter budget constraints, standing to gain a great deal from faster cash-flow. Cheques are used by sole traders and other micro businesses and small businesses to make over a fifth of their outgoing payments.¹⁸ Providing recipients of cheques with greater convenience in how they deposit will also cut down the time it takes for the payment to complete, as today there is often a delay before deposit with customers needing to find a physical branch and pay in during banking hours.

4.2. Regulatory Reform (Small Business Appeals Champions)

44. The focus of regulatory reform in the UK has been on reducing the burden of regulation and minimising the costs it can impose, and to ensure that where regulation is needed, it is targeted and proportionate so as to promote economic growth and wider economic welfare.

45. Well designed regulation that provides long term signals to individuals and businesses has an important role in incentivising investment and innovation. However, badly designed or enforced regulations can place unnecessary burdens on businesses and constrain economic growth.

46. Hence it is important that businesses - and in particular small businesses - are confident that they can ask for an explanation or challenge a regulator's decision without fear, disproportionate cost or long delays. Evidence gathered under the Focus on Enforcement programme shows that this is not always the case, noting concerns about the effectiveness of complaints and appeals systems¹⁹. Furthermore, a survey of micro, small and medium-sized businesses by ICF GHK, in collaboration with BMG Research, for BIS found that²⁰:

- 63 per cent of businesses surveyed who have at some point disagreed with a regulator's decision have never appealed;
- Of those businesses that did not appeal against decisions, the most common reasons given were that there was 'no point appealing' (66 per cent) or that they 'have not had enough time' (19 per cent) as their main reasons. A further 10 per cent thought the process was too expensive; and
- Proportionately, micro and small businesses are less likely to appeal than medium-sized enterprises (28 and 36 percent respectively, as against 51 per cent).

47. The new Regulators' Code, which came into effect in April 2014, sets out the Government's expectations of non-economic regulators' treatment of appeals and complaints. However, the Government recognises that there is a varied and broad range of statutory remits, enforcement regimes, and types of intervention against which a business may wish to appeal or complain. For that reason, it believes that the most efficient means of improving businesses' experience of appeals and complaints is to ensure that each regulator has its own arrangements for audit and scrutiny.

48. Hence the Government wants to create in law and appoint within each non-economic regulator an independent Small Business Appeals Champion, with legal powers and duties to:

- scrutinise the transparency, operation and effectiveness of regulators' appeals and complaints processes;
- obtain data and information from regulators; and
- publicly report on their findings with recommendations for changes and improvements.

¹⁸ Source: http://www.paymentscouncil.org.uk/media_centre/press_releases/-/page/2366/

¹⁹ The Government's Focus on Enforcement programme has, since 2012, reviewed businesses' experiences of the delivery and enforcement of regulation in various sectors by national and local regulators <http://discuss.bis.gov.uk/focusonenforcement/>

²⁰ ICF GHK Regulatory Enforcement Business Survey January 2014

The Government expects Regulators to comply with such recommendations for improvements to their processes, or explain their reasoning for non-compliance.

Policy Proposal	Benefits	Costs
The introduction of a Small Business Appeals Champion into each non-economic regulator.	Simpler, more effective, more transparent, less costly and better understood series of processes by which businesses are able to challenge regulators' decisions and behaviour.	Total annual cost of £3,000 per regulator in scope of the policy including the costs of employing the Champions and their support staff.

4.3. Pubs Code and Adjudicator

49. Government intervention is needed to ensure the fair treatment of tenants of tied pubs by large pub companies. Evidence of a problem has come from four Select Committee investigations over the last decade and a steady and continuous stream of correspondence from tenants. These poor outcomes for tenants are driven by features of the market and exacerbated by the nature of the tie between pub companies and tenants. In particular the market is characterised by asymmetric information, imbalance of bargaining power, behavioural biases and lock-in through the tie. Given the evidence, particularly from the Select Committee reports, Ministers believe there is reason to intervene on the basis of fairness to rebalance outcomes.

50. The Government is introducing a Statutory Code including a Market Rent Only option to tied tenants of pub owning companies with 500 or more tied pubs. The code will also provide those tenants with increased transparency, fair treatment, the right to a parallel rent assessment, the right to request a rent review when beer prices increase significantly or their circumstances change substantially, and the right to take disputes to an independent Adjudicator with stronger enforcement powers and the ability to investigate systematic breaches of the code.

Policy Proposal	Benefits	Costs
Implementation of a statutory code and adjudicator including a Market Rent Only option	It will ensure the fair treatment of tied tenants leading to a transfer of up to £140m from pub companies to tenants. The only monetised benefit is a £30k saving from reduced spending on voluntary regulatory bodies.	It will ensure the fair treatment of tied tenants leading to a transfer of up to £140m from pub companies to tenants. The adjudicator is estimated to cost £540k to set up and then £1.6m a year to run. These costs will be paid by a levy on business. The cost of carrying out independent assessments for Market Rent Only Option is estimated at £2.0m per year. The best estimate is that eventually the policy will indirectly cause 390 pub closures resulting in an indirect cost to business of £16.7m per year.

4.4 Companies: Transparency

51. At the UK-chaired G8 Summit in 2013, the G8 Leaders recognised the need to address the problem of corporate opacity. The rationales for intervention to address this problem tend to be structured around the following market failures:

- Where there is a lack of transparency around corporate structures which facilitates illicit activity and hinders the criminal justice system, there is regulatory failure with respect to the company law framework and enforcement.
- Where there is a lack of transparency, there is an information asymmetry which damages trust and hinders transactions and investment.

52. The G8 leaders agreed common principles²¹ to tackle the misuse of companies and legal arrangements and to publish National Action Plans setting out the concrete steps they would take to implement them. The Government’s objectives, which the Act brings forward, are to:

- ensure that companies obtain and hold information on people with significant control over a company (i.e. on the individuals who ultimately own and control the company – i.e. their ‘beneficial owners’) and make this information accessible onshore to relevant authorities.
- abolish bearer shares which provide a way for individuals to hold an interest in a company without having to provide details on the company’s register of members which would allow their identification, leading to scope for misuse and mistrust as bearer shares are untraceable and can be transferred without record. This would help to meet International Global Forum on Tax Transparency standards and the Financial Action Task Force recommendations on bearer shares activity; and
- restrict the use of corporate directors and directors acting as a front for others’ control, which can create corporate opacity with respect to the natural person controlling a company. It could also lead to reduced effectiveness of corporate oversight.

Policy Proposal	Benefits	Costs
<p>Creating a publicly accessible central registry of people with significant control over a company (collated by companies), maintained by Companies House.</p>	<p>Benefits will be associated with: (1) reduction in crime and increased efficiency by law enforcement agencies, reduced due diligence costs for regulated entities and from these, efficiency and welfare gains to the economy; and (2) increased transparency which could potentially have an impact on economic growth</p>	<p>Costs to Government are estimated to be £70k-109k for the IT development of the registry and communication to industry; and £220k pa on-going for the maintenance. Costs to businesses are estimated to be £417.4m set up cost, and £77.7m pa on-going costs for updating information and providing returns to Companies House. Costs to individuals from reporting requirements. Potential indirect impacts on UK investment. Additional costs to police or other relevant agencies and court services.</p>

²¹ G8 action plan principles to prevent the misuse of companies and legal arrangements (June 2013): <https://www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements>

<p>To abolish bearer shares.</p>	<p>There are non-monetised benefits to bearer share issuing companies, individuals and to other companies which are associated with increased economic activity arising from increased transparency. There are also benefits to Government, individuals and business of a reduction in illicit activities.</p>	<p>Transition costs. There are costs to both bearer shareholders (£87k) and bearer share issuers (£23k) to becoming familiar with the policy change. There are also costs to bearer shareholders in identifying themselves to the company and converting the shares (£41k). There are legal costs to bearer share issuing companies to convert the shares into registered shares or cash (£840k). There are communication (time and administration) costs associated with the legal requirement to contact bearer shareholders (£175K). Lastly, there is a cost to Government of implementing and publicising the changes (£41k). Ongoing costs. There are yearly costs of £6k due to the reduction in the ease of transferability to bearer shareholders arising from abolition.</p>
<p>A prohibition of corporate directors in primary legislation with exemptions from the prohibition set out in regulations, new legal means of holding accountable those who influence a company director.</p>	<p>Benefits derived from measures to tackle opaque company director arrangements will accrue to the Government, business and individuals from a reduction in crime and increased trust supporting economic growth.</p>	<p>Companies which currently use corporate directors and are not eligible from an exemption from a future prohibition would incur costs based on familiarisation with the policy change (£4m); the replacement of a corporate director, should the company decide to pursue that course (£24m); and any resulting reputational damage/disruption (£9m). These costs will occur to a lesser extent for those companies within the scope of exemptions, and therefore the total costs are lower. There will also be costs to Government to publicise and implement the relevant regulatory changes (totalling £51,500). Increased accountability of those who control appointed directors might result in familiarisation costs to business of £11m in addition to £2m in one-off disruption costs.</p>

4.5. Removal of onerous company filing requirements

53. The Government considers it vital we have a company law framework that gives companies the flexibility to compete and grow effectively. It is important to ensure that creditors, customers and suppliers have the information they need in order to be able to do business with a company with confidence.

54. At the same time it is important to ensure that we do not require companies to file unnecessary information and that the process for filing company information is as simple as possible.

55. To reduce regulatory burdens on companies and improve the information on the public register, the Government proposes through the Act

- Replace the requirement for companies to submit an annual return on a specified date (regardless of whether they have made any changes to their information within the year) with a requirement for companies to check and confirm the information at least once in a 12-month period, amending if required.
- Give private companies an option not to keep the following registers: register of directors, directors' residential addresses, secretaries, members, and the proposed register of beneficial ownership.

- Simplify a company’s statement of capital by removing unnecessary requirements; and ensure that, throughout the Companies Act, all requests to complete a statement of capital are consistent, requiring the same information.
- Amend the procedure to strike off and dissolve a company from the public register to reduce the time the process takes, and simplify the filing requirements on companies for newly appointed directors and company secretaries.
- Remove the requirement to send a ‘Consent to Act’ form to Companies House. Instead, the registrar of companies would write to directors following their appointment. They would be able to object to their names being included as a director if they believe they are not in fact a director of the company.

Policy Proposal	Benefits	Costs
Proposing a package of measures to reduce regulatory burdens on companies and improve the information on the public register.	There are ongoing monetised benefits of £24.1m pa. This figure comprises the time and accountancy charge savings of not having to complete the annual return within year and time savings resulting from the simplified filing requirement on companies for newly appointed directors.	There are transition familiarisation costs for companies for all the measures in this package and for software providers associated with updating their standard packages. In total £53.9m. There are also small ongoing costs, £0.8m pa, of complying with the simplified requirements on companies relating to annual returns and newly appointed directors.

4.6 Directors’ disqualification

56. Misconduct perpetrated by the minority of directors who don’t play by the rules is damaging to consumers and the majority of businesses who do take their responsibilities seriously. In appropriate cases, often following the insolvency of a company, the Insolvency Service investigate and brings director disqualification proceedings. Liquidators and administrators may also use statutory provisions to seek compensation for creditors.

57. The Act includes a number of measures in this area, which are designed to tackle the following market failures:

- Information asymmetries compounded by high transaction costs of gathering information and conducting background checks where directors have more information (including information on their background and potential misconduct patterns) than shareholders and creditors.
- Information asymmetries where directors have more information than creditors about their likely future behaviour. In particular, an unintended consequence of limited liability could be that directors are more likely to engage in risky behaviour or misconduct. Furthermore, high transaction costs (for example, from trying to write the “perfect contract”) can prevent creditors from protecting themselves, inhibiting in some instances investment from happening.
- Addressing regulatory failures to improve the prevention of misconduct and protection of creditors by allowing for a compensation awards to be imposed against directors against whom misconduct has been established.

58. These measures will strengthen the director disqualification regime and increase the likelihood of the victims of director misconduct being compensated, thereby giving consumers and businesses confidence that wrongdoers will be barred and directors held more accountable for their actions.

Policy Proposal	Benefits	Costs
<p>To protect the market from those who have been convicted overseas of an offence in relation to a company by allowing the Secretary of State to seek their disqualification from acting in the management of a company in the UK.</p>	<p>Benefit (non monetised), in the form of financial ‘damage’ avoided, to creditors associated with the avoidance of future wrongdoing by individuals convicted overseas seeking to import serious misconduct into the UK.</p>	<p>Transition costs (negligible) to the Insolvency Service (IS) from producing the guidance and to the judiciary from reading it. Familiarisation costs to Insolvency Practitioners are considered to be £507k to £1.01m.</p>
<p>Expanding the time limit, from two to three years, during which to bring disqualification proceedings against directors following the formal insolvency of a company.</p>	<p>Cost savings to The Insolvency Service from (1) not having to issue ‘protective’ proceedings - £35,340 a year (2) and from not having to apply for leave to issue out of time (currently 0-2 cases per year at £40,000 each i.e. a range of £0 to £80,000 per year with a mid-point of £40,000) and (3) For each disqualification there is an estimated benefit of preventing future transfers of assets to the illegal market (see Annex) from £0 to £756,000 with a best estimate of £71,000.</p> <p>There might be wider benefits from increased confidence in the system stemming from The Insolvency Service having greater flexibility to investigate larger, more complex, cases.</p> <p>There will be a range of zero to nine additional directors disqualified, preventing a future unfair transfers from creditors to the company they would otherwise have controlled</p>	<p>Familiarisation costs (negligible) to Courts. A small number of investigations – those lasting more than two years – are likely to have a higher cost attached (non monetised).</p>
<p>Giving Courts and Secretary of State (SoS) a power to make a compensatory award against a disqualified director, in favour of one or more creditors of an insolvent company.</p>	<p>Based on illustrative figures there would be a benefit occurring from miscreant directors to creditors (insolvent estates). This equates to a range of £0m to £11.6m per annum. This would be paid by miscreant directors.</p> <p>There may also be some wider non-monetised benefits relating to increased confidence in the enforcement and civil recovery regime, if directors believe there is a greater chance of them being held financially accountable for their actions, this may deter them from committing misconduct in the first place, which may result in smaller losses to creditors and also fewer disqualifications resulting from any reduced misconduct.</p>	<p>There are one off familiarisation costs to insolvency practitioners (IPs) and lawyers in becoming familiar with the legislation estimated to be £0.93m.</p> <p>Based on our illustrative figures, the increased investigation costs incurred by the Insolvency Service in pursuing a compensation award are in the range of £0m to £1.73m per annum. This is a cost to the Insolvency Service.</p> <p>Based on our illustrative figures, there could be increased court fees/costs to be paid in the range of £0m to £0.07m per annum.</p> <p>There could also be wider legal fees in the range of £0m to £1.96m per annum. This will cover both the directors own legal costs and that of the Insolvency Service in pursuing</p>

		the compensation award. These costs will be paid/claimed from the miscreant director.
Widening the scope of material that can be used in director disqualification proceedings	<p>The widened definition of 'investigative material' is likely to increase the number of S8 disqualifications as it will be more straightforward, quicker and cost effective to bring these on the basis of regulator information. This will free up resource which can be put towards additional investigations. Of those investigations that result in additional disqualifications, there is some benefit in preventing future damage that would otherwise have been caused by the director.</p> <p>Each additional disqualification can protect future creditors from an inappropriate transfer from them to a company that the director might control. There will also be benefits to the wider economy, a deterrent effect on other directors who might otherwise have been tempted to engage in unfit conduct; preventing disqualified directors from initiating misconduct in other sectors and triggering other company failures and helping to improve standards of company stewardship.</p>	No costs to the public sector or to business.
Enabling liquidators and administrators to assign to third parties certain rights of action that only they can bring under the Insolvency Act 1986 and to extend the right to bring fraudulent and wrongful trading actions to an administrator	<p>The main beneficiaries of this policy are creditors and insolvency litigation firms who will benefit from a transfer from miscreant directors. The benefit would be the average £77,000 a case based on our illustrative example. This would initially be split evenly between creditors and civil litigation firms but could change if there is more competition in the market.</p> <p>Legal firms/parties could also benefit from any actions that are taken forward. Again this would be a transfer from the miscreant directors to the legal firm.</p> <p>There may be some wider non-monetised benefits relating to increased confidence in the enforcement and civil recovery regime by allowing more claims to be pursued and won. There could also be a deterrent effect by allowing the possibility for more claims to be pursued, miscreant directors who otherwise might have engaged in wrongful or fraudulent behaviour may be deterred from doing so.</p>	<p>There is a one off familiarisation cost to insolvency practitioners (IPs) and lawyers in becoming familiar with the legislation estimated to be £0.93m.</p> <p>Depending on how the market develops and the number of assigned cases, based on our indicative figures there could also be a transfer from miscreant directors to creditors (insolvent estates) and civil litigation firms. This is estimated to be £77,000 a case. The split between creditors and litigation firms is expected to be 50:50 at the beginning, but as more competition comes into the market, this may change with a higher proportion going to creditors. There could also be wider legal fees of £17,260 a case which would be paid by the miscreant director.</p>

<p>Matters to be taken into account by the Court when determining that a person is unfit to act as a company director.</p>	<p>An additional 0 to 15 directors each year may choose to settle a disqualification case earlier, by undertaking before proceedings are issued at court, which would save The Insolvency Service from having to incur legal costs. Savings range from £0 to £0.69m. Further, with some disqualifications being brought more efficiently, resource will be freed up for additional investigations, preventing disqualified directors otherwise removing assets to an illegal market. Estimated benefit is £0 to £210,000.</p> <p>Increased clarity for stakeholders on what constitutes misconduct. This can help to improve standards of company stewardship to the overall benefit of creditors, deter some directors from engaging in some misconduct and improve the perception in the enforcement regime. Additionally the cost savings that lead to additional resource and an increase in disqualifications. Each disqualification impacts creditors by preventing future unfair transfers from them.</p>	<p>(1) Transition cost (negligible) to the Insolvency Service from producing updated guidance and to the judiciary from reading it.</p> <p>(2) Familiarisation costs to IPs and lawyers are estimated to be between £507k and £1.01m</p> <p>(3) Familiarisation costs to lawyers expected to be in the range of £31,000 to £307,000.</p>
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4.7 Insolvency

Modernising the insolvency framework

59. The Government considers it important that we have an insolvency law framework that allows for the orderly and efficient administration of personal and corporate insolvency proceedings. The framework has to strike a balance between an individual debtor's need for relief from indebtedness and chance of financial rehabilitation; the rescue of viable businesses; and creditors' right to receive payment for their debts. This helps the affected parties in an insolvency deal fairly with the impact of financial failure.

60. To maximise returns to creditors, thereby reducing the impact of insolvency, the legal framework should ensure that insolvency proceedings are dealt with efficiently, without imposing unnecessary regulatory burdens. The Government therefore proposes through the Act to:

- remove physical meetings of creditors as the default decision making process in insolvency proceedings, including abolition of final meetings in bankruptcy and liquidation;
- allow an insolvency office holder to pay certain dividends without the creditor having to submit a claim;
- extend the period to which creditors may consent to continue administration proceedings reducing the need for court involvement;
- remove the requirement for insolvency office holder to seek the approval of creditors for routine actions;
- streamline the way in which insolvency practitioners report director conduct to the Secretary of State in corporate insolvencies; and

- implement other minor and technical measures to streamline insolvency proceedings and reduce costs.

Policy Proposal	Benefits	Costs
Proposing a package of measures to reduce unnecessary regulatory burdens on the administration of insolvency proceedings.	The monetised benefit relates to a package of measures designed to improve the efficient working of all insolvency procedures. The direct beneficiaries are office holders and creditors. They are estimated at £16.0m pa.	There will be some transition costs of £7.6m, mainly incurred by active insolvency practitioners (about 1,350 individuals) and their staff, in familiarising themselves with legislative changes. The majority of these costs are likely to be incurred only for those measures that will be implemented in 2016.
Report director misconduct: Red Tape Challenge proposals to change reporting processes	<p>Cost savings from reduction in estimated time to complete single new electronic return versus cost of completing current statutory form will enable more money to be returned to creditors. Best estimate of indicative savings in cost of submitting the new return is £4.3m p.a.</p> <p>Not quantifiable benefits from earlier investigation of miscreant directors leading to more efficient investigations and enforcement outcomes and increasing consumer confidence and protection.</p>	One-off familiarisation costs and electronic portal costs of £0.9m.

Regulating Insolvency Practitioners

61. Insolvency Practitioners (IPs) are given a considerable amount of power and discretion within insolvency legislation so it is essential they are appropriately regulated. We need an insolvency profession that inspires and maintains confidence that it is doing the best possible for creditors in the circumstances. The current framework of regulation suffers for having no clear legislative framework against which regulatory activities can be assessed and the regulators held to account. The only sanction against the regulators which is currently available to the Secretary of State as oversight regulator is to de-recognise them as a regulator. This leaves the oversight regulator in a weak position and undermines the credibility of the regime as a whole.

62. Two independent reports - one by the Office of Fair Trading (OFT) in 2010 and one by Professor Elaine Kempson in 2013 - have found that there are weaknesses in the current regulatory regime for IPs²². Government intervention is therefore needed to address these weaknesses and increase confidence in the regime and insolvency framework. This will lead to better and more consistent outcomes for all stakeholders in insolvency cases.

63. In line with the recommendations made by the OFT, the Government believes that the best way to achieve this is by introducing a number of measures to strengthen the framework generally. These are:

²² www.oft.gov.uk/news-and-updates/press/2010/67-10
<http://www.bis.gov.uk/insolvency/insolvency-profession/review-of-ip-fees>

- **Introduction of regulatory objectives** as a framework against which regulatory activity can be measured and assessed. They will provide regulators with a clearer, enhanced framework within which to carry out their activities, enable consistency of approach and a reference point for discussion between IPs/regulators and between regulators/oversight regulator. This includes that IP fees are fair and reasonable for work undertaken.
- **A range of sanctions for the oversight regulator** to ensure that appropriate action is taken where a regulator is not acting in accordance with the regulatory objectives. The sanctions are; direct a regulator to take action; impose a financial penalty; issue a reprimand; and revoke a regulator's recognition.
- In order for the oversight regulator to use his powers effectively, it is necessary for him to have a **power to require information** to support his investigations.
- Where it is in the **public interest, the Secretary of State will be able to apply to court directly (rather than going through the relevant regulator) to sanction an IP** where public confidence in the regime is undermined and could have serious consequences for the reputation of the profession. An example is where the activity undertaken impacts across all regulators and is so serious that action is required immediately.
- A **reserve power to appoint a sole regulator**, if the outlined measures do not have the desired effect of increasing confidence in the regulatory regime.

Policy Proposal	Benefits	Costs
<p>Package of measures to increase confidence in the insolvency profession and regime and deal effectively and efficiently with poor performance and abuse.</p>	<p>Strengthened regulatory framework which deals effectively with abuse, both by the regulators and the IPs they regulate. This leads to:-</p> <p>1) better and more consistent outcomes for all stakeholders in insolvency cases as IPs are less likely to commit misconduct knowing they will face a stricter enforcement regime; and</p> <p>2) enhanced confidence in IP profession and regime, leading to greater confidence to lend, as any misconduct and abuse is more effectively sanctioned.</p> <p>These changes also bring the regulatory framework in line with other regulatory regimes.</p> <p>Unquantifiable benefits are increased efficiency in the market by addressing the market failure, IP market confidence, and consistency amongst regulators. This will also lead to benefits for creditors and debtors as IPs are less likely to over-charge knowing that the regulators have responsibility for ensuring fees are fair and reasonable for the work undertaken.</p>	<p>Calculations generally assume full compliance with the regulatory regime. Additional staff and legal costs for the oversight regulator are estimated at £0.19m.</p> <p>The additional costs to the regulators in reviewing fee complaints will be £12.5m pa (£107.4m NPV) in the high complaint scenario, £1.9m pa (£16m NPV) best estimate scenario and £0.3m pa (£2.7m NPV) in the low compliant scenario. The majority of these costs relate to staffing and overhead costs in hearing fee complaints. This cost would be split between the 7 regulators. Costs will continue to be recovered from the regulators on a full recovery cost basis under existing arrangements and are likely to be passed on to insolvency practitioners through the regulators' existing levy mechanisms. Actual additional costs will depend on the extent of increased monitoring, numbers of complaints and other inquiries, the extent of any non-compliance and appeals.</p>

4.8. Employment Law Reform

64. The Government believes that it is important that the labour market operates in as flexible, efficient and fair a way as possible. Hence, as described below, it is proposing a number of measures to reform employment law through the Act.

Making exclusivity clauses in employment contracts of those with weekly earnings below 35 hours at the NMW rate legally unenforceable

65. The Government believes that it is important that the labour market operates in as flexible, efficient and fair a way as possible. It is important that where types of employment such as zero hours contracts which offer flexibility to both employers and employees work effectively for both parties.

66. In the past year, Government has conducted an information gathering exercise and a consultation on zero hours contracts. It has found that while in many cases these contracts can suit employers and some individuals, there was evidence that some employers operated zero hours contracts in a way that undermined the choice and flexibility for the individual on the contract. One key way this was done was through the use of exclusivity clauses in these contracts, which prevented individuals from finding additional employment with another employer even when the primary employer offered no work. It was felt that the imbalance in market power towards some employers would require a regulatory approach to rectify this market failure.

67. The exclusivity clause operates as a barrier to individuals on zero hours contracts, who could be working variable hours and therefore have variable weekly earnings. It prevents them from obtaining additional hours of work, and boosting their weekly earnings, for instance in weeks when their employer offers fewer hours than usual, or does not offer any additional hours. By amending employment regulation to remove these barriers to these individuals fully benefitting from flexible contracts the earnings of these individuals could be improved, potentially moving some out of welfare dependency.

68. To overcome market failures in the operation of zero hours contracts and other employment contracts affecting the in-work and low paid, the Government is proposing to:

- Make exclusivity clauses legally unenforceable in employment contracts offering no guaranteed hours of work or income (zero hours contracts).

69. The Government also plans to improve the content and accessibility of information, advice and guidance on a) employment contracts and rights and b) entitlement of individuals on ZHCs to benefits. However, the details of this exercise have yet to be decided. The impacts of this element of the policy will be assessed when it is clearer what will be involved.

70. The Government has consulted recently on the potential for avoidance of the ban on exclusivity clauses in employment contracts offering no guaranteed hours or income (25th August to 3rd November 2014). The consultation asked about the potential extent of avoidance of the ban, and which approach might be most effective to prevent avoidance, including action that employees might take.

Policy Proposal	Benefits	Costs
Proposing a ban on exclusivity contracts in employment contracts offering no guaranteed hours of work or income	There are on-going monetised benefits associated with the extra wages resulting from additional hours worked by enabled individuals (those on zero hours contracts without second job who are estimated to take an additional job) (£7.1m each year) and the employers return from additional output from the extra hours of labour (10% of the additional wages x non-wage labour costs) (£0.8m each year, of which £0.7m for businesses)	Familiarisation costs for legislation on exclusivity – affecting employers with zero hours contracts (£0.5m). One-off costs to employers for altering affected contracts to include confidentiality clauses (£0.3m) and on-going costs to employers to deal with reorganisation resulting from some enabled individuals taking up additional work with a different employer (£0.6m each year, of which £0.5m to businesses).

National Minimum Wage

71. The Government is taking a tougher approach on employers who break National Minimum Wage law, which is to provide protection to low-paid workers by avoiding potential exploitation by employers who, in the absence of legislation, could undercut competitors by paying unacceptably low wages; and also to provide incentives to work.

72. The National Minimum Wage (Variation of Financial Penalty) Regulations 2014 increased the penalty percentage from 50% to 100% of the amount of NMW underpaid, and the maximum penalty from £5,000 to £20,000. These changes came into force on 7 March 2014.

73. The Prime Minister made the following announcement on NMW financial penalties: ‘We are also clamping down on those who employ people below the minimum wage. They will pay the price with a fine of up to £20,000 for every under-paid employee – more than four times the fine today.’ (27 November 2013).

74. At present a temporary measure has been implemented to reach a position that is broadly comparable to the Prime Minister’s commitment. This method allows the amount of penalty paid to be increased compared to the previous penalty regime in cases where there are very high arrears by issuing one notice of underpayment (NOU) per worker or group of workers who have been underpaid by £20,000 or more.

75. However, the extra administration for HMRC issuing and responding to more than one NOU is not seen as a cost effective means of achieving the policy aim, which is to apply the maximum penalty on a per worker basis. In this case the upper limit on the penalty is imposed by a NOU determined by the amount of underpayment per worker up to £20,000 rather than a set penalty limit per notice applied irrespective of the number of underpaid employees.

76. Amending primary legislation will align the statutory power to set the maximum penalty with the practice adopted in March 2014 to meet the Prime Minister’s announcement. This will result in greater clarity on the calculation and application of the penalty, making it easier for employers to understand and for HMRC to enforce.

Policy Proposal	Benefits	Costs
Power to set the maximum National Minimum Wage financial penalty on a per worker basis.	Based on the number of cases in 2013/14, the exchequer would receive an additional £1.8m in penalties and save £250k in administration costs. Higher penalties for non-compliance with the NMW law for employers with high arrears to a number of workers should result in fewer cases of non-compliance.	There will be no cost to compliant employees.

Employment Tribunal reforms

77. The Government believes that workplace disputes are best resolved outside of the stress and expense of an employment tribunal. Where this is not possible Government is committed to improving the process to reduce the time and cost it takes to go through the system.

78. One of the concerns from businesses about the tribunal process is the time it takes. Unnecessary or short notice postponements can lead to additional costs for businesses. To reduce the costs and time associated with postponements the Government is proposing to:

- Limit the number of times a party can apply for postponement;
- Oblige tribunals to consider cost orders for short notice postponement requests; and
- Impose a maximum time limit for tribunal postponement requests²³

79. Government is also concerned by recent research commissioned by BIS showing that 35% of employment tribunal awards remain unpaid six months following judgment (with a further 16% only part paid)²⁴.

80. A dispute resolution process with high levels of non-compliance risks a lack of credibility. People who have paid to access a tribunal can rightly expect some certainty that their award will be paid if a judge rules in their favour. Equally, businesses that are compliant need to feel that there is a level playing field when they observe the rules and address disputes in the lawful way. To address this problem and encourage payment Government intends to impose a financial penalty on non-compliant firms with the aim of encouraging compliance and prompt payment of awards.

²³ This measure will be implemented through secondary legislation.

²⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/253558/bis-13-1270-enforcement-of-tribunal-awards.pdf

Policy Proposal	Benefits	Costs
<p>Cost orders for short notice postponements, a limit on the number of postponements and a time limit for postponement requests</p>	<p>HMCTS data on postponements shows that respondents (employers) are most likely to receive a notification of a postponement, rather than being the party to instigate the postponement.</p> <p>Net impacts of introducing the new postponement measures are likely to be net beneficial for business.</p> <p>Legislation will reduce problem postponements (and costs related to wasted time) or that a cost order will be made to recompense the company for costs incurred when a problem postponement does occur.</p> <p>Prior to introduction of the Act it has not been possible to consult with stakeholders to determine the likely level of benefits. We will work with stakeholders during the passage of the Act to quantify the benefits and inform the final EANCB figure.</p>	<p>Companies entering into an employment tribunal may wish to familiarise themselves with the new legislation. However, there is no fundamental requirement for this – the legislation does not require them to take any action.</p> <p>Those companies requesting a postponement are likely to familiarise themselves with the measures. We assume that the number of postponements by respondents (1,152 per year²⁵) is a suitable proxy for this population.</p> <p>We therefore assume that at the lower 5 minute time estimate it will cost each employer $((5/60) \times £27.09)$ £2.26, whilst at the higher time estimate of 15 minutes it will cost each employer $((15/60) \times £27.09)$ £6.77.</p> <p>This gives a lower an upper bound of £2,604 and £7,799 for familiarisation costs.</p>
<p>A penalty for companies that do not pay employment tribunal awards</p>	<p>Compliant businesses will benefit from no longer suffering a competitive disadvantage from non-compliant firms.</p>	<p>We assume that all business (whether compliant or not) will face familiarisation costs due to contingency planning. There is a risk that the number of businesses included in the costing may be an overestimate. This is because the introduction of fees has initially lowered the number of cases entering Employment tribunal by 73% and early conciliation has been introduced, which also has the potential to lower employment tribunal cases. We do not yet have sufficient data to determine if this is a long-run trend.</p> <p>Familiarisation costs for compliant companies are in scope of One-In, Two-Out. The EANCB (at 2009 prices) is calculated to be £0.10m.</p>

83. The Summary document and the Impact Assessments that it accompanies can be found on the *Small Business, Enterprise and Employment Act* website:
<https://www.gov.uk/Government/publications/departments/=department-for-business-innovation-skills>

²⁵ This is the average yearly number of respondent postponements over the two-year period to 31st March 2013 (HMCTS data on postponements).

Annex A: Summary of key impacts for each Act theme

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Access to Finance	Prompt payment reporting requirement:	Small businesses are currently owed on average £32,000 in late payments - £32.4bn in total (Bacs, January 2015). The Act measures will help to reduce this burden of late payment on small business by creating a more transparent payment culture. The measures will also make it easier for companies to check the payment performance of suppliers before entering into contracts, reducing their cost of business and increasing the efficiency of the pricing of contracts.	The measures will impose costs on UK large incorporated companies, large UK Limited Liability Partnerships (LLPs) and public companies in adapting to the new requirements. The transitional and on-going costs will depend on the outcome of the consultation on the details of the requirements, which closed on 2 nd February 2015.	Consultation on draft secondary regulations and pre-consultation stage IA was published on 27 November 2014 and closed on 2 nd February 2014. A summary of responses will be published in March 2015.
	Prompt payment banning assignment:	The regulations will allow businesses greater access to invoice finance by invalidating clauses in business to business contracts that prevent the assignment of receivables.	This measure should have a relatively low cost as, depending on the outcome of a consultation on secondary legislation; it may simply invalidate individual contract clauses by default rather than require contracts to be re-written or re-designed.	Consultation on draft secondary regulations and pre-consultation stage IA was published on 6 December 2014 and closed on 11 February 2015. A summary of responses will be published in March.
	Mandating data sharing by credit rating agencies	Improve competition and flow of information where access to credit for small and medium sized firms is concerned.	Upfront costs of £14m for lenders to make changes to IT systems as a result of mandating data sharing by credit rating agencies.	Published in June 2014.
	Mandating the sharing of information on SMEs	Improved access to finance for SMEs, and greater competition in the provision of finance to SMEs.	One off and ongoing competition costs to banks incurred from the requirement to share information on SMEs they reject for finance with designated platforms.	Published in June 2014.
	Controlled release of non-financial VAT registration data	Increased access to credit for small and medium sized companies, in particular for unincorporated and recently incorporated businesses. Estimated uptake of credit in the region of £0.7-£1.4 Action.	Operational costs of implementation – these are expected to be negligible.	Tax Impact Information Note to be published alongside Act.
	UK Export Finance statute changes	Will facilitate climate for exporting and firms involved, or wishing to become involved in exporting or export supply chains.	The measures in themselves will not impose any additional costs to businesses. UKEF works within a financial framework set by HMT which requires it, over time, to operate at no net cost to the tax-payer. UKEF charges a premium for use of its products which is linked to UKEF's assessment of the risks involved.	Not required as the measure will not impose additional costs or burdens on businesses.
	Release of exporter's details	Provides greater visibility of UK exporters to new customers in the global market place. Assists developers to create exporter registers and online shop fronts to advertise and showcase UK exporters and their products. Enables those who provide export services to more easily identify their customers. Helps importers to locate alternative UK suppliers.	There are no costs to business. Data will be provided via a website free of charge. There will be IT costs to HMRC to set the service up. These have not yet been determined.	Not required as the measure will not impose additional costs or burdens on businesses or civil society.

	Amendment of outdated cheque clearing legislation to allow for cheque imaging	Benefits to the banking sector of an estimated £93.5m per annum. Business and voluntary sectors will benefit from faster cheque clearing times and from the improved choice and convenience of being able to deposit cheques by mobile device.	No regulatory costs being imposed in terms of banks' capability for image capture. The banking industry is likely to need to improve the capability of their central infrastructure in order to exchange electronic cheque images – the best estimate for this cost is £30m. This would be one-off and spread across the entire banking industry.	Published in October 2014.
	Payment Systems Regulator	Zero. This measure does not represent a change in Government policy, rather it is to ensure that the Government's original proposals are delivered. Those original proposals were previously consulted on and an impact assessment has already been published.	Zero – an impact assessment has already been published.	No impacts from this measure – this measure ensures that the Government's original proposals are delivered. Those original proposals have already had an impact assessment published.
Policy Theme	Measure	Benefits	Costs	Impact Assessment
Regulatory Reform	Streamlined Company Registration	This measure will speed up the time it takes individuals to start a business in the UK but enabling them to supply all the information they need to register for tax purposes and company incorporation in one easy online transaction	This measure commits the SoS to ensure a One Click solution is delivered by May 2017 but does not specify what that solution will be. We are in the process of scoping out potential solutions and will carry out impact assessments on those solutions when they have been identified. There will be no additional costs for individuals or businesses	Not required as it does not entail any changes to regulatory obligations on business.
	Small Business Appeals Champion	Benefits to business of being able to challenge regulators' decisions and behaviour in a simpler, more efficient way.		Published alongside the Act.
	Legislating for a duty on the Independent Complaints Commissioner (ICC) to produce an annual report including an assessment of the complaint handling procedures of the financial services regulators and their impact on complainants	To improve the quality of scrutiny of complaints handling procedures within the financial services regulators and to increase the extent to which those procedures are fair and accessible to complainants, including small businesses	Expect minimal cost impact on businesses. The ICC already produces a non-statutory annual report where costs are roughly calculated at £5200 per annum.	Not required because of low cost to business.
	Business Impact Target	Better ensures prioritisation of regulation; greater control over the introduction of regulatory costs; greater certainty for the regulated community of the regulations and costs they will face; full accounting of regulatory intervention affecting business.	No costs to business	Measures only affect Government. No obligations or costs imposed on business, the third sector, or wider public sector
	Duty that regulations impacting on business be subject to review	Will help ensure that redundant or un-necessary regulation is revoked, and burdens on business of other regulation are kept under regular review.	No costs to business	No IA prepared. Measures only affect Government.

	Definition of small and micro business for the purpose of regulatory exemptions	Enables use of exemptions for small and micro businesses in other secondary legislation	No costs to business	Not required. Establishing definitions on legislation has no regulatory effect. No obligations or costs imposed on business, the third sector, or wider public sector.
	Removing the incentive for landlords to prevent their residential tenants from operating a business from the property they rent.	Landlords will benefit from certainty that agreeing business use in a home will not result in a business tenancy (with the associated greater security of tenure). Tenants looking to run a home business from home should find it easier to gain agreement from their landlord.	There will be some small familiarisation costs – primarily for residential landlords.	Not required because of low cost to business.
	Competition and Markets Authority to publish recommendations on proposals for legislation	Increase likelihood of legislation being compatible with competition objectives and encourage Departments to consider impacts of policies on competition.	No costs to businesses. Competition and Markets Authority will need to use a small amount of resource to determine whether or not to exercise the power. It already has an advocacy function which this power complements.	Not required as the measure will not impose additional costs or burdens on businesses.
	Statutory exemption from liability for regulators of auditors (FRC)	This provision enables bodies concerned with accounting standards to be exempt from liability for damages without requiring the body to receive a grant.	No costs to business	Not required. No impact on business
Policy Theme	Measure	Benefits	Costs	Impact Assessment
Public Sector Procurement	An enabling power which allows the Government to make regulations relating to public procurement. The broad aim is to make procurement practices across the public sector more streamlined and efficient, and to remove barriers for small businesses to help them grow; This power may be used in the future to impose duties on contracting authorities to: -run an efficient and timely process, -accept electronic invoices -stop charges being made to suppliers to access procurement opportunities	More proportionate and efficient procurement timescales (stopping procurements being run too quickly which discriminates against small businesses, and eliminating procurements which unnecessarily take far too long thereby incurring significant bidding costs); less bureaucratic processes, making it easier and cheaper for small businesses to compete and win more business; more pre-market discussions between contracting authorities and businesses to help formulate procurement needs; and better contract management.	Negligible costs to Government relating to the annual reporting obligation.	Not required as no costs to business imposed.
	Power for Minister to request certain documents or information (mystery shopper procurement) and contracting authorities to co-operate with investigations	Reduction of bureaucracy and barriers in procurement processes will lead to reduced costs though this cannot be quantified. Reduction of bureaucracy and barriers in procurement processes leading to smaller firms being better placed to compete for and win public sector business	Negligible. May reduce costs as Government will spend less time chasing authorities for information and documents if they are obliged to provide them timeously	Not required as no costs to business imposed.

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Pubs: Code and Adjudicator	A Statutory Code of Practice including a Market Rent Only option and an Adjudicator to enforce the Code, to govern the relationship between large pub owning businesses and their tied tenants	It will ensure the fair treatment of tied tenants leading to a transfer of up to £140m from pub companies to tenants. The only monetised benefit is a £30k saving from reduced spending on voluntary regulatory bodies.	It will ensure the fair treatment of tied tenants leading to a transfer of up to £140m from pub companies to tenants. The adjudicator is estimated to cost £540k to set up and then £1.6m a year to run. These costs will be paid by a levy on business. The cost of carrying out independent assessments for Market Rent Only Option is estimated at £2.0m per year. The best estimate is that eventually the policy will indirectly cause 390 pub closures resulting in an indirect cost to business of £16.7m per year. The estimated net cost to business of £2.8m is likely to increase by £0.7m due to the reinstatement of parallel rent assessments for existing tenants.	Published in January 2015 ²⁶ . An enactment stage IA will be published after the enactment of the Act. An enactment stage IA will be validated by the Regulatory Policy Committee in due course. If the increase in cost is higher than £0.7m the summary Act IA will be published again.

²⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397174/bis-15-64-pubs-statutory-code-and-adjudicator-final-stage-impact-assessment.pdf

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Childcare and Schools	Funding for Free of charge early years provision	The effect of the amendment is that it will enable HMRC and DWP to share social security and tax credit data with local authorities for the purpose of checking a child's eligibility for the EYPP.	Local authorities already fund early years providers for the funded early education entitlement, and already check eligibility for FSM and the two-year-old entitlement. The introduction of the EYPP will build on both of these existing processes. LAs have received pump-priming funding to support the introduction of entitlement to early learning for two year olds (£148m in 2013-14; £82.5m in 2014-15) which LAs were free to use to invest in eligibility checking and funding system efficiency improvements.	The proposed measure only affects the public sector. On that basis, an Impact Assessment is not required.
	Exemption from requirement to register as early years provider for 2 year olds.	Removes a bureaucratic burden and makes it easier for schools to offer nursery provision for two year olds. Will improve quality of childcare; teacher-led provision being more likely to be higher quality. Increases choice for parents. Will help local authorities meet their statutory duty on funded 2 year old childcare places for the most deprived.	None – this measure removes the cost to schools of separate registration and inspection	Not required as the measure will not impose additional costs or burdens on businesses
	Childminding other than on domestic premises	Enables child minders to also operate from non-domestic (as well as domestic) premises if they wish	None – this is an enabling measure that will allow childminders to work from non-domestic premises (e.g. a school) if they wish	Not required as the measure will not impose additional costs or burdens on businesses
	Removal of requirement to register premises for provision of childcare	Enables early years and childcare providers to register multiple premises in a single registration process	None – this measure simplifies the registration process for early years and childcare providers	Not required as the measure will not impose additional costs or burdens on businesses

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Education and Evaluation	HE/FE (Higher Education/Further Education) data sharing and transparency measures to link earnings data with education data. Assessments of effectiveness.	This measure will allow a new range of data to provide insights on employment and entrepreneurship, social mobility and educational effectiveness. A specific benefit will be that new statistics on outcomes will be made available to help students make more effective course choices. It is not possible to quantify these benefits, but more informed student choice would ensure the education system is more accountable and reactive to its economic value.	There are no costs to business stemming from this measure. There will be some additional costs internal to Government in linking information, but this will be an extension to existing processes.	Not required as the measure will not impose additional costs or burdens on businesses.
	HE/FE data sharing and transparency measures to link earnings data with education data. Qualifications.	This measure will provide for the collection of data from colleges in the same way that it is for schools, so as to ensure that DfE's performance tables are compiled on a sound basis, improving accountability and therefore, potentially, outcomes. It is not possible to quantify these benefits.	There are no costs to business stemming from this measure. There will be some additional costs internal to Government in linking information, but this will be an extension to existing processes.	Not required as the measure will not impose additional costs or burdens on businesses.
	HE/FE data sharing and transparency measures to link earnings data with education data. Destinations.	This measure will allow data on destinations of students to be included in the tables, improving the accountability of educational establishments and providing young people with more information on the potential outcomes of their educational choices. It is not possible to quantify these benefits but they would result from improved employment outcomes for students.	There are no costs to business stemming from this measure. There will be some additional costs internal to Government in linking information, but this will be an extension to existing processes.	Not required as the measure will not impose additional costs or burdens on businesses.

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Companies: Transparency	Creating a publicly accessible central registry of people with significant control over UK companies (collated by companies), maintained by Companies House	Benefits to business from improved trust and transparency lead to wider economic growth benefits	Costs to Government are estimated to be £70k-109k for the IT development of the registry and communication to industry; and £220k pa on-going for the maintenance. Costs to businesses are estimated to be £417.4m set up cost, and £77.7m pa on-going costs for updating information and providing returns to Companies House. Costs to individuals from reporting requirements. Potential indirect impacts on UK investment. Additional costs to police or other relevant agencies and court services.	Published in June 2014.
	To abolish bearer shares.	There are non-monetised benefits to bearer share issuing companies, individuals and to other companies which are associated with increased economic activity arising from increased transparency. There are also benefits to Government, individuals and business of a reduction in illicit activities.	Transition costs. There are costs to both bearer shareholders (£87k) and bearer share issuers (£23k) to becoming familiar with the policy change. There are also costs to bearer shareholders in identifying themselves to the company and converting the shares (£41k). There are legal costs to bearer share issuing companies to convert the shares into registered shares or cash (£840k). There are communication (time and administration) costs associated with the legal requirement to contact bearer shareholders (£175K). Lastly, there is a cost to Government of implementing and publicising the changes (£41k). Ongoing costs. There are yearly costs of £6k due to the reduction in the ease of transferability to bearer shareholders arising from abolition.	Published in June 2014.
	A prohibition of corporate directors in primary legislation with exemptions from the prohibition set out in regulations, new legal means of holding accountable those who influence a single company director.	Benefits derived from measures to tackle opaque company director arrangements will accrue to the Government, business and individuals from a reduction in crime, and increased trust supporting economic growth.	Companies which currently use corporate directors and are not eligible from an exemption from a future prohibition would incur costs based on familiarisation with the policy change (£4m); the replacement of a corporate director, should the company decide to pursue that course (£24m); and any resulting reputational damage/disruption (£9m). These costs will occur to a lesser extent for those companies within the scope of exemptions, and therefore the total costs are lower. There will also be costs to Government to publicise and implement the relevant regulatory changes (totalling £51,500). Increased accountability of those who control appointed directors might result in familiarisation costs to business of £11m in addition to £2m in one-off disruption costs.	Published in June 2014.

Policy Theme	Measure	Benefits	Costs	Impact Assessment
Company filing requirements	Abolition of onerous company filing requirements	There are ongoing monetised benefits associated with time and accountancy/agent charge savings of not having to complete the annual return within year (£23.2m) and also savings on having to send information to Companies House regarding directors' appointments (£0.9m). There are non-monetised benefits associated with companies having the option no longer to hold registers. There are benefits relating to improved functionality of the register. Lastly there are savings from having to provide less financial information in statements of capital.	There are transition familiarisation costs for companies and their advisors (where applicable) for all the measures in this package (totalling £50.8m) There will still be on-going costs associated with filing company information (£0.8m per annum), but these will be lower than the avoided costs of the current system.	Published in June 2014.
Policy Theme	Measure	Benefits	Costs	Impact Assessment
Directors' Disqualification	A suite of measures to address misconduct by directors	Ongoing benefits quantified at around £2m but unquantified benefits are likely to be significant from improving confidence in the insolvency regime and protecting creditors from miscreant directors.	One-off costs to business and public sector likely to be modest around £5m	Published in June 2014
Policy Theme	Measure	Benefits	Costs	Impact Assessment
Insolvency	A set of measures to reduce unnecessary regulatory burdens on the administration of insolvency proceedings.	The monetised benefit relates to a package of measures designed to improve the efficient working of all insolvency procedures. The direct beneficiaries are office holders and creditors. They are estimated at £16.0 m pa.	There will be some transition costs of £7.6m, mainly incurred by active insolvency practitioners (about 1,350 individuals) and their staff, in familiarising themselves with legislative changes. The majority of these costs are likely to be incurred only for those measures that will be implemented in 2016.	Published in October 2014.
	Report director misconduct: RTC proposals to change reporting processes	Cost savings from reduction in estimated time to complete single new electronic return versus cost of completing current statutory form will enable more money to be returned to creditors. Best estimate of indicative savings in cost of submitting the new return is £4.3m p.a. Not quantifiable benefits from earlier investigation of miscreant directors leading to more efficient investigations and enforcement outcomes and increasing consumer confidence and protection.	One-off familiarisation costs and electronic portal costs of £0.9m.	Published in October 2014.

	<p>A set of measures to increase confidence in the insolvency profession and regime and deal effectively and efficiently with poor performance and abuse.</p>	<p>Strengthened regulatory framework which deals effectively with abuse, both by the regulators and the IPs they regulate. This leads to:-</p> <p>1) better and more consistent outcomes for all stakeholders in insolvency cases as IPs are less likely to commit misconduct knowing they will face a stricter enforcement regime; and</p> <p>2) enhanced confidence in IP profession and regime, leading to greater confidence to lend, as any misconduct and abuse is more effectively sanctioned.</p> <p>These changes also bring the regulatory framework in line with other regulatory regimes.</p> <p>Unquantifiable benefits are increased efficiency in the market by addressing the market failure, IP market confidence, and consistency amongst regulators. This will also lead to benefits for creditors and debtors who should experience lower financial losses as IPs are less likely to over-charge knowing that the regulators have responsibility for ensuring fees represent value for money.</p>	<p>Calculations generally assume full compliance of the regulators and IPs with the regulatory regime. Additional staff and legal costs for the oversight regulator are estimated at £0.19m.</p> <p>The additional costs to the regulators in reviewing fee complaints will be £12.5m pa (£107.4m NPV) in the high complaint scenario, £1.9m pa (£16m NPV) best estimate scenario and £0.3m pa (£2.7m NPV) in the low compliant scenario. The majority of these costs relate to staffing and overhead costs in hearing fee complaints. This cost would be split between the 7 RPBs but may be passed onto the IPs they regulate.</p>	<p>Published in June 2014.</p>
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Policy Theme	Measure	Benefits	Costs	Impact Assessment
Employment	<p>Implementation of section 78 of the Equality Act 2010 to build on the progress made through voluntary gender equality reporting. The measure in the Small Business, Enterprise and Employment Act requires the Government to make regulations under section 78 of the Equality Act 2010 (gender pay gap information) no later than a year after this Bill is given Royal Assent. This will require private and voluntary sector employers in Great Britain with at least 250 employees to publish information about the pay of employees, for the purposes of showing any differences in pay by gender.</p>	<p>Publishing the difference in pay between male and female employees is a significant indicator of how an employer is doing on tackling a range of factors that contribute towards the gender pay gap; this is because pay is an outcome of getting other things right. It highlights issues with the recruitment of women, their retention and progression as well as how they are rewarded in comparison to men.</p> <p>This enables employers to explore the factors behind these e.g. availability of flexible and part-time working patterns, support for maternity returners, company culture, unconscious bias, historical pay rates, inconsistency with bonuses etc.</p> <p>Publishing a gender pay gap figure provides a benchmark and evidence about whether there is a problem and if so how substantial it is.</p> <p>Companies can then take corrective action to address it.</p>	<p>There are varying estimates of the costs per company of gathering and publishing gender pay gap information. Estimates vary from less than £100 a year (in impact assessment for the Equality Act 2010) to around £5,000 per company (CBI response to Equality and Human Rights Commission consultation in 2009).</p> <p>However, the cost to business will depend on the information required, the frequency of publication and other factors. Inevitably it will vary from employer to employer, but we would want to seek a light-touch approach which will not be unduly burdensome on business.</p> <p>It is anticipated that ongoing annual costs would be less than initial start-up costs.</p>	<p>The Government would look to work closely with stakeholders in developing a public consultation on exactly how these regulations will be implemented through secondary legislation. An Impact Assessment will be provided at that time.</p>

	<p>Whistleblowing: A duty on prescribed bodies to report annually on public interest disclosures made to them.</p>	<p>Increased transparency and consistency of reporting will ensure that all public interest disclosures are considered for further investigation. It will increase confidence levels in whistleblowers (74% say nothing is done about the wrong doing they report).</p>	<p>There will be no costs to business. It will affect certain bodies on the prescribed persons list, which includes</p> <ul style="list-style-type: none"> • 56 regulators • 2 public bodies relating to policing standards • Local Authorities (434 principle authorities) <p>It will not impact the following bodies on the list</p> <ul style="list-style-type: none"> • All MPs (650) • the National Assembly for Wales and 3 Government Ministers (including one Scottish Minister) <p>Many bodies already capture the data we are requiring in some form, or already operate data gathering exercises. This duty will require them to add to or adapt their existing processes to cover public interest disclosures made to them. We have an idea of volume from the regulators who receive most reports. The Care Quality Commission receives around 450 reports, the FCA receives approximately 1000 and the CAA receives about 100. Therefore it is not huge volumes we are requiring data about.</p>	<p>Not required as there are no costs to business.</p>
	<p>Whistleblowing: Introduce a regulation making power to allow the Secretary of State to prohibit certain NHS employers from discriminating against job applicants on the grounds that the applicant has made a protected disclosure.</p>	<p>Increasing the protection offered to whistleblowers will contribute to minimising the negative impact of having made a protected disclosure on the relevant individual.</p> <p>More widely, increasing the protection offered to whistleblowers will contribute to achieving a transparent and open culture within the NHS, with associated indirect benefits to all NHS staff.</p>	<p>There will be no cost to business. It will impact a sub-set of public sector NHS employers only, which will be determined within the regulations.</p> <p>An initial assessment of the aggregate potential costs to all the relevant employers of the handling of cases being brought against them suggests a maximum cost of £85,000 per annum.</p> <p>Furthermore, initial estimates suggest maximum costs to government of approximately £125,000 could be generated by a rise in the number of tribunal cases to be heard.</p> <p>The cost of meeting any awards made to individuals at the conclusion of an employment tribunal are not included. There is potential for these to be significant, however it is not possible to estimate their possible value as this will be entirely dependent on the nature and number of cases brought, as well as their subsequent outcomes.</p>	<p>No impact assessment is required as there are no impacts on business</p>

Employment Tribunals: Penalty for unpaid award	<p>Greater certainty for people who have paid to access a tribunal that their award will be paid if a judge rules in their favour.</p> <p>Encourages a level playing field so that businesses that are compliant are not disadvantaged.</p>	<p>Compliant businesses will face some familiarisation costs when entering into an employment tribunal process.</p> <p>The mid-range estimate of the associated cost is £133,500 each year resulting in an estimated equivalent annual net cost to business of £0.10 million.</p>	<p>Amounts may be subject to change as measure passes through Parliament. The measure will be implemented through a commencement order and it will be at this stage (following Royal Assent) that a final IA will be expected.</p>
Employment tribunals - Cost orders for short notice postponements, a limit on the number of postponements and a time limit for postponement requests	<p>Net impacts of introducing the new postponement measures are likely to be net beneficial for business. Legislation will reduce problem postponements (and costs related to wasted time) or that a cost order will be made to recompense the company for costs incurred when a problem postponement does occur. Compliant businesses will benefit from no longer suffering a competitive disadvantage from non-compliant firms.</p> <p>Estimated benefit to business of £0.96 million each year. This number may be subject to change following consultation and stakeholder feedback on cost of late notice postponements to business.</p>	<p>Familiarisation costs for compliant businesses to be small.</p> <p>Familiarisation costs are estimated to range from £2,604 to an upper bound of £7,799. On the basis of this analysis, the RPC confirms that the measure is suitable for the fast track as a low-cost proposal.</p>	<p>Not required because of low cost to business.</p> <p>Full impact assessment not required until final stage. The primary legislation in the Act in itself will not deliver cost/benefit until the measures are taken forward in secondary legislation following Royal Assent.</p>
Power to set the maximum National Minimum Wage financial penalty on a per worker basis	<p>Based on the number of cases in 2013/14, the exchequer would receive an additional £1.8m in penalty fees and save £250k in administration costs.</p> <p>Greater punishment for non-compliance with the NMW law should result in fewer cases of non-compliance.</p>	<p>Based on the number of cases in 2013/14, the cost to non-compliant employers would be an additional £1.8m in penalty fees.</p>	<p>Published in October 2014.</p>
Measure on Zero Hours Contracts: ban exclusivity clauses in zero hours contracts and improve guidance	<p>On-going benefits to new employers of enabled individuals taking additional work, due to returns on additional output generated of £0.84 million each year. Also, benefits to individuals of wages for their additional hours worked (though some may go to the Exchequer in reduced benefits) of £7.11m annually.</p>	<p>Employers face one off familiarisation costs of £0.48 million for the legislation banning exclusivity clauses. Some employers will also amend their affected contracts to include confidentiality clauses (£0.29m.). Employers will face on-going reorganisation costs of £0.62 million a year due to additional unavailability of workers no longer restricted by exclusivity clauses.</p>	<p>Published in October 2014.</p>
Public sector exit payment recovery measure	<p>Financial savings from recovering staff exit payments where a high-paid individual leaves and then re-joins the same public sector within 12 months.</p>	<p>Familiarisation costs and other associated one-off costs, as well as ongoing HR costs, of implementing and ensuring compliance with the policy.</p>	<p>Impact Assessment not required as no costs to business.</p>

<p>Concessionary Coal</p>	<p>The measure will enable the Government to support UK Coal Production Ltd, UK Coal Thoresby Limited and UK Coal Kellingley Limited by way of meeting the company's concessionary fuel obligation to members of its workforce in accordance with the rules on regular and proper expenditure. This clause will provide the Government with an express statutory power under which to provide support on concessionary coal. This will commence automatically, two months after the Bill receives Royal Assent.</p>	<p>Benefits to employees.</p>	<p>Based on estimates, provided by the current administrators of the UK Coal concessionary fuel scheme, support for UK Coal Production Limited, UK Coal Thoresby Limited and UK Coal Kellingley Limited by way of meeting of the concessionary fuel obligations to members of their workforce will have an initial cost to Government of approximately £1m per annum with a total liability of £28m until 2040 due to a declining per annum spread.</p>	<p>Impact Assessment was not required.</p>
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Annex B

	Present Value of Benefits (original)	Present Value of Benefits (adjusted)	Present Value of Costs (original)	Present Value of Costs (adjusted)
Mandating data sharing on credit	0	0	14	13.2
Cheque Clearing	833.6	908.4	28.5	31.0
Pubs Code and Adjudicator	0.2	0.2	126.1	126.1
Power to set National Minimum Wage on a per worker basis	17.6	17.5	15.5	15.0
Zero hours	68.5	64.3	6.1	5.6
Companies: Transparency - register of people with significant control (G8)	0	0	1088.2	1015.5
Companies: Transparency - corporate opacity through company directors (G8)	4.9	4.8	51.5	46.7
Companies: Transparency - prohibition of bearer shares (G8)	0	0	1.3	1.3
Abolition of onerous company filing requirements	207.4	203.9	62.4	61.6
Matters to be taken into account by the Court when determining that a person is unfit to act as a company director	0	0	0.9	0.9
Extending the time limit for director disqualification proceeding under the CDDA	0.4	0.4	1.1	1.1
Widening the scope of material that can be used in director disqualification proceedings	1.5	1.5	0	0
Protecting the market from the individuals who have been convicted overseas	0	0	0.9	0.9
Insolvency Service Red Tape Challenge	150.7	141.0	7.3	7.3
Update the process for reporting director misconduct	35.7	35.7	0.9	0.9
Regulating Insolvency Practitioners	0	0	18.0	18.0
Enabling Liquidators and Administrators to assign to third parties certain rights of action that only they can bring under the Insolvency Act 1986 and to extend the right to bring fraudulent and wrongful trading actions to an administrator	0	0	0.9	0.9
Giving the court and Secretary of State (SoS) a power to make a compensatory award against a director	0	0	0.9	0.9
Insolvency Service Fees Regime	0	0	16.0	16.0
Total Net Present Value for domestic measures (adjusted)		£1,074 m (range from £879m to £1,211m)		
Total Net Present Value for G8 measures (adjusted)		-£1,059m (range from -£760m to -£2,192m)		

Note: In order to show a total net present value, which shows the quantified balance between costs and benefits to society it was necessary to adjust some of the underlying assessments as the individual cost benefit analysis was based on different price and PV base years. Given that a large number of the Impact Assessments used the present value year and price base year of 2013, the present value of the costs and benefits of the remaining Impact Assessments (where the PV year and price base year were different) was standardised by rebasing the PV year and price base year to 2013. Then the totals of the costs and benefits were added up to give a total net present value

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