

# Partial Regulatory Impact Assessment

## Title

Review of the Riot (Damages) Act 1886

## Purpose and Intended Effect of the Measure

**(i) Objective** - To consult key stakeholders on the options canvassed in the review of the Riot (Damages) Act 1886 (RDA).

**(ii) Background** - Under the RDA a police authority in England and Wales becomes liable to pay for damages to buildings and their contents when a riot has taken place. Following the riots in the north of England during the summer of 2001 a review was set up to ascertain whether the Act remains relevant in the context of modern policing.

**(iii) Risk Assessment** - It is difficult to quantify accurately the financial impact of changes to the RDA. Riots are still comparatively rare events. In the last 8 years there were 2 instances of riot in 1995, 5 in the summer of 2001 and 1 in 2002. The frequency and geographical location of riots and the extent of riot damage are unpredictable. Past events are, at best, an uncertain guide to future risks. This assessment relies heavily on historical data gathered on payments made by police authorities since 1995 in settlement of claims (see annex A). However, it is the case that some claims are still under negotiation and the figures are not conclusive evidence of the costs of riot damage during the period examined.

## Options

- Option 1** Retain the RDA unaltered
- Option 2** Repeal the Act entirely
- Option 3** Reform the Act to limit liability for claims

## Benefits

The benefit of **option 1** is that a safety net would remain in place and businesses that are effected by riot damage to make a claim on the police authority.

**Option 2** would remove from police authorities the potentially unlimited liability for riot damages claims. There is a potential benefit to the insurance industry if cover for riot damages was made commercially available.

**Option 3** would combine the benefits under option 1 and 2. It would continue to offer a degree of financial compensation to business affected by riot damage, whilst limiting liability of police authorities.

## 5. Costs

Under **option 1**, to retain the RDA as it stands, there would be no new or additional cost to business, the voluntary sector or charities. The potential cost to the public sector is unlimited, depending on the scale and damage caused by any future riot(s). Based on a historical analysis of claims from 1995 it is possible to show that the value of claims settled by police authorities in the last 8 years has been just under £1million. Four of the 7 instances of riot have affected a single police authority: - West Yorkshire.

Under **option 2** a degree of the risk carried currently by the public sector is transferred to business. Of the claims settled since 1995, about 90% were from the small business sector. To put this in context, since 1995, 86 businesses have made claims for riot damage out of an estimated 3.4 million small businesses in England and Wales.<sup>1</sup> Most payments made have been relatively small in cash terms - ranging from £500 to £7,000 - in most cases to cover re-glazing costs. But it is impossible to assess, from the limited historical data, the significance of these payments for the viability of the businesses affected. It is not clear whether, if this option were implemented, business would be able to lay -off risk through commercial insurance cover and, if so, at what cost. It is hoped that the consultation process will help clarify these issues.

Under **option 3** there will be a transfer of risk to business by capping claims but costs can not be quantified because consensus has not been reached on an appropriate claim limit or capping mechanism. A cap of 50% on the value of claims actually paid since 1995 would have reduced payments made to date by approximately £0.5 million.

### **Consultation with small business: the Small Firms' Impact Test**

The Small Business Service have viewed the initial consultation document and following the incorporation of a number of their concerns into option 3 they are content for the consultation to go ahead. We are liaising with them further to ensure that small business sectors are consulted.

### **Competition Assessment**

A competition filter has been completed for the options, where necessary. They show that the options proposed would be unlikely to affect the competitive process.

### **Enforcement and Sanctions**

Under option 1 to retain the Act in its current capacity would not require any enforcement. Option 2 would require primary legislation. Option 3 may be

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<sup>1</sup> Source: Small Business Service.

affected by secondary legislation. If following consultation option 3 was desirable then we will investigate this avenue further.

## **Monitoring and Review**

A scheme to monitor and review the effectiveness of any change will be put in place following public consultation when a preferred option has been identified.

## **Consultation**

### **(i) Within Government**

Department for Education and Skills  
Department for Culture, Media and Sport  
Department of Trade and Industry (Small Business Service)  
Department of Health  
Home Office  
HM Treasury  
Lord Chancellors Department  
National Assembly of Wales  
Office of the Deputy Prime Minister  
Scottish Executive  
Wales Office

### **(ii) Public Consultation**

Stakeholders who have been identified for involvement in the public consultation process are to be found at paragraph 35 of the consultation document. The list includes the Association of Police Authorities, the Association of Chief Police Officers, representatives of the insurance industry and the wider business community.

This list is not exhaustive and the role of the small business service in identifying further contacts is being investigated.

## **Summary and Recommendation**

This partial RIA identifies that there will be a transfer of risk from the public sector to business under options 2 and 3. There is also a potential business opportunity for the insurance industry through the development of a commercial market in riot damages cover. The costs and risks to business are difficult to quantify accurately at this stage. The consultation process should help develop the evidence base for the options identified in the review.

