 Regulatory Policy Committee	Validation of the One-in, Two-out Status and the Net Direct Impact on Business	
Validation Impact Assessment (IA)	Implement Part 1 Commons Act 2006 in full in Cumbria and North Yorkshire and corrective application under Part 1 across England	
Lead Department/Agency	Department for Environment, Food and Rural Affairs	
IA Number	DEFRA1814	
Origin	Domestic	
Expected date of implementation	SNR8	
Date of Regulatory Triage Confirmation	n/a	
Date submitted to RPC	19 August 2014	
Date of RPC Validation	30 September 2014	
RPC reference	RPC14-FT-DEFRA-2190	
Departmental Assessment		
One-in, Two-out status	IN	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	£0.00 million	
RPC assessment	VALIDATED	
Summary RPC comments		
<p>The Validation IA is fit for purpose.</p> <p>The analysis provides a reasonable estimate of the number of statutory dispositions that are likely to be made in England over the five year period to 2019. The Department estimates the equivalent annual net cost to business, rounded to the nearest £10,000, to be £0.00 million. On the basis of the analysis in the IA, the RPC is able to validate the estimated EANCB figure.</p> <p>The Department could improve the IA by presenting the calculation of the net present value (NPV) more clearly and explaining in greater detail the impact of the measure on different sizes of businesses. This does not affect the EANCB figure.</p>		
Background (extracts from IA)		
What is the problem under consideration? Why is government intervention necessary?		
<p><i>“The registers of common land and town & village greens (TVGs) are the</i></p>		

legal record of the land and are used to manage and protect them. They were created under the Commons Registration Act 1965, which required all commons, TVGs and rights over them to be registered by 1970. Mistakes were made when the registers were compiled but flaws in the legislation mean there are insufficient powers to correct them. Failure to keep registers up to date can lead to externalities e.g. devaluation of property through mistaken registration. Intervention to allow the registers to be corrected would address inefficiencies in the operation of markets and institutions (e.g. correcting registers in the system) and would provide certainty on whether the land has any rights over it or not.”

What are the policy objectives and the intended effects?

“The policy objective is for the registers to accurately reflect today’s details of commons, TVGs and the rights over the land (e.g. the present owner of a right of common, not the owner in the late 1960s). The intended effect is that the accurate record will allow for the better protection of commons and TVGs. The registers are used by [the Rural Payment Agency] (RPA) for claims on commons, by Natural England for access maps and by solicitors for conveyances.”

RPC comments

The proposal is to improve the accuracy of the registers that record the rights associated with common land, and town & village greens (TGVs). The Commons Registration Act 1965 (the Act) led to the creation of the register but made insufficient provision for the correction of mistakes or amendments. The Department explains that accurate records are intrinsic to proper management of the commons.

Part 1 of the Commons Act 2006 allows for applications to amend the information in the registers. Due to insufficient resources at the present time, full implementation of Part 1 will be restricted to Cumbria and North Yorkshire counties. These counties account for over 50% of the total area of commons and TGVs in England. Partial implementation of Part 1 will occur elsewhere in England, by allowing five types of corrective applications. The Department expects the partial implementation of Part 1 to be a temporary measure that will be reviewed within five years.

The IA does not include an estimate of the cost for the full implementation of Part 1 of the Commons Act 2006. The IA would benefit from the inclusion of this estimate together with some further explanation on how budget constraints are currently preventing full implementation across England. Under the Red Tape Challenge initiative, the implementation of Part 1 will allow for 15 statutory instruments to be revoked and replaced with a single set of regulations.

The Department expects the vast majority of applicants to be rights holders, such as small farmers, owners of commons and TGVs, and owners of

property located on commons and TGVs. The Department was unable to quantify the proportion of applicants that are likely to be businesses and has, therefore, assumed all of them will be businesses.

The Department has based its analysis on a project undertaken by seven local authorities to test the legislation and the guidance, and to identify the costs of updating the registers. The project began in October 2008 and lasted for two years. Based on information from that study, the Department estimates that local authorities in Cumbria and North Yorkshire will receive 657 applications over a five year period.

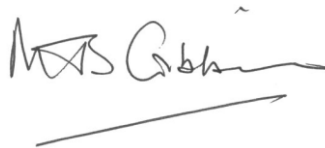
Except for statutory dispositions (which include compulsory purchase orders used for example, for new housing or road developments), applications are voluntary. As a result, the Department assumes that individuals and businesses will only make applications when it is net beneficial for them to do so, resulting in a zero net cost to business. There may be instances where businesses will be making applications to rectify mistakes recorded on the register that are not of their making, for example, if the ownership of common land has changed hands since the original data was compiled. The Department has not provided an estimate for the number of these cases. However, as the costs and benefits of the proposal are based on the accuracy of the information currently contained in the register, the assumption that businesses will make applications only when it is net beneficial for them remains valid.

For statutory dispositions, the Department estimates that the total cost to business over the five year period will be £654. This is based on 3 applications being made over the period at a cost of £218 per application. The Department has not monetised the benefits.

On the basis of the analysis in the IA, the RPC is able to validate the estimated EANCB figure of £0.00 million, rounded to the nearest £10,000.

However, the RPC found the NPV analysis difficult to follow. The Department could improve the IA by presenting the detailed analysis in Annex B more clearly. Although a SaMBA is not required, additional detail on the wider impact of the measure on different sizes of business could also improve the overall IA. This does not affect the EANCB figure.

Signed



Michael Gibbons, Chairman