 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	Secondary legislation for England and Wales specifying the controlled drugs and the corresponding limits in blood for the new drug driving offence in section 5A of the Road Traffic Act 1988 (as inserted by the Crime and Courts Act 2013)	
<b>Lead Department/Agency</b>	Department for Transport	
<b>Stage</b>	Final	
<b>IA number</b>	00274	
<b>Origin</b>	Domestic	
<b>Expected date of implementation</b>	SNR8	
<b>Date submitted to RPC</b>	13 March 2014	
<b>RPC Opinion date and reference</b>	23 April 2014	RPC13-DFT-1973
<b>Departmental Assessment</b>		
<b>One-in, Two-out status</b>	IN	
<b>Estimate of the Equivalent Annual Net Cost to Business (EANCB)</b>	£0.55 million	
<b>RPC Overall Assessment</b>	<b>GREEN</b>	
<p><b>RPC comments</b></p> <p>The RPC can validate the Department's 'One-in, Two-out' (OITO) assessment. The small and micro business assessment (SaMBA) is sufficient.</p> <p>However, the RPC considers that in certain other respects the IA is not fit for purpose. There are some areas where the IA must be improved for it to act as an effective decision making tool. In particular, the Department estimates that the proposal may have a significant negative impact on society. The IA needs to provide a stronger justification for why the proposal remains the Department's preferred option.</p>		
<p><b>Background (extracts from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p><i>“Driving under the influence of drugs contributes to or causes road deaths and injury and so is a problem in road safety terms. Although research suggests that the incidence of illegal drug driving is about half that of driving whilst under the influence of alcohol, very few proceedings (i.e. prosecutions) are brought against impaired drivers (less than 2,500 in 2012, compared to 49,000 proceedings brought under the prescribed limit drink driving offence). Primary legislation has been enacted to create a new drug driving offence and Government is required to specify in secondary legislation the controlled drugs to be covered by the new offence and the limit for each. The new offence enables more effective enforcement action to be taken against drug drivers.”</i></p>		

**What are the policy objectives and the intended effects?**

*“The overall policy objective is to improve road safety by reducing the risk that drug drivers pose by reducing its prevalence in the driving population. To achieve this overall objective, it is also our aim to:*

- 1. Deter people from taking illegal drugs in the first place and those who abuse their medication.*
- 2. Enable more effective enforcement against those who persist in taking illegal drugs and continue to drive.*
- 3. Increase the efficiency of enforcement activity against drug drivers.”*

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

*“There are no alternatives to regulation as Parliament has enacted primary legislation and this requires the Government to specify in regulations the drugs to be covered by the new offence and the limit for each. The Government presented 3 different options in its consultation carried out from 9 July to 17 September 2013. The Government had a preferred option, which was supported in the consultation and is therefore presenting it to Parliament.*

*The regulations for the new offence therefore cover 16 controlled drugs found in blood above a specified limit. For 8 controlled drugs most associated with illegal use limits in line with a ‘zero tolerance approach’. For 8 controlled drugs most associated with medical uses limits in line with a ‘road safety risk based approach’, as identified by the DfT Expert Panel. The limit for a further controlled drug (amphetamine) was proposed following a further consultation carried out from 19 December 2013 to 30 January 2014 but was inconclusive so the Government will re-consult at a later date. The impact assessment does though assume amphetamine will be included at the earliest opportunity.”*

**Comments on the robustness of the OITO assessment**

The IA says that this is a regulatory proposal that would impose a net cost to business (an ‘IN’) with an estimated equivalent annual net cost to business of £0.55 million. This is due to the transitional costs to pharmaceutical companies of having to amend their patient information leaflets. This is consistent with the Better Regulation Framework Manual (paragraph 1.9.10). Based on the evidence presented, the IA provides a reasonable assessment of the likely impacts.

**Comments on the robustness of the Small & Micro Business Assessment (SaMBA)**

The proposals increase the scope of regulation on business. Therefore a SaMBA is required.

The SaMBA is sufficient. The Department states that the pharmaceutical companies who manufacture medicines are large corporations and many of them are multinationals. The small businesses that may be affected are the laboratories

that provide the service of testing blood samples to the police force. It is reasonable to assume that the revenue they receive from the police for this additional activity will at least be equal to the costs and paragraph 1.9.20 of the Better Regulation Framework Manual applies.

Furthermore the IA says *“The new legislation is aimed at the individual citizen to comply with road safety law. Clearly any person driving for work will need to comply and that will have a positive impact on all businesses including small and micro businesses by reducing their exposure to staff having road traffic accidents.”*

### **Quality of the analysis and evidence presented in the IA**

The IA was originally submitted as a low cost fast track measure. However, following the consultation, the Department identified that the transitional costs to business are likely to exceed £1 million in the first year. The Department therefore submitted a full impact assessment for RPC scrutiny.

While the RPC can validate the Department’s ‘One-in, Two-out’ (OITO) assessment and the small and micro business assessment (SaMBA), the committee has concerns about a number of analytical issues and therefore does not consider the IA to be fit for purpose:

*Net present value.* The Department has estimated that the proposal will have a net present value to society of -£79 million. This is a result of the significant costs to the crown prosecution service, the criminal justice system, and the police. The Department expects these costs to outweigh the benefits of reduced road casualties. The IA also says that the costs to police *“are likely to be an underestimate of the true costs because [the Department has] neither an estimate of the unit cost of the screening device nor a forecast for the number of screening devices, which will be used annually. In addition, [the Department has] no estimate of the number of screening tests, which will not result in court proceedings”* (paragraph 80).

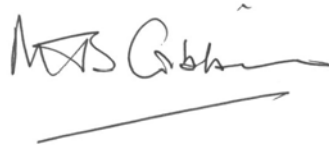
The IA supports the proposal by explaining that *“aligning a zero tolerance approach to drug driving to the overall drug strategy may add to the benefits of that strategy”* (paragraph 90). Examples given in the IA include a reduction in demand for prison places, reduction in drug related crime, and a reduction in costs to health and social care services. The IA does not demonstrate with any degree of certainty that these potential non-monetised benefits are likely to outweigh the costs (both monetised and non-monetised). It is therefore unclear on what grounds the Department is taking the proposal forward as the preferred option.

*Assumptions.* The Department has assumed that the number of proceedings against drivers over the specified drug limit, and subsequently the number of offenders charged, will remain constant over the 20 year appraisal period. This analysis does not appear to take into account the improvements that will be made in equipment and detection methods over time or the reduction in costs of such equipment. The Department’s assumption of a constant number of proceedings also implies that the proposal will not be effective in deterring drug driving. The IA needs to provide a more detailed discussion of the likely profile of impacts, along with an assessment of how effective the proposal is expected to be in achieving

the stated objectives.

*Post Implementation Review.* The IA says that the implementation date for this proposal is SNR 8 (October 2014 – April 2015) with a post implementation review to be carried out in October 2016. The Department should give consideration as to whether this is sufficient time for the policy to take effect and, if so, ensure there will be adequate data available to evaluate the policy effectively.

**Signed**

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal stroke underneath.

**Michael Gibbons, Chairman**