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***Palazzo del Ferdinando,  
MIB School of Management  
Largo Caduti di Nasirya n°1  
tel: +39 040 918 8111***

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**REPORT**

**“HOMICIDE, FOOTBALL AND SCRAP METAL:  
SOME PRACTICAL EXAMPLES”**

**by**  
**Mr StJohn BATES**  
**Professor, University of Strathclyde Law School**  
**United Kingdom**

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### **Social Security Fraud Act 2001**

- The principal purpose of the legislation was to reduce fraud and error in the means-tested state benefits system
- Introduced into UK Parliament in December 2000
- Explanatory Notes on the Bill were published when it was introduced, and they included an analysis of the financial effects of the Bill (including staffing implications)

### **Social Security Fraud Act 2001**

- Bill estimated to result in gross savings of £200-400 million per annum

### **Social Security Fraud Act 2001**

- The legislation empowered the Department of Social Security, to obtain additional information about employees from businesses
- Cost to business: £2.5-7.6 million per annum
- Cost to the Government : £3.65 million per annum (with an initial set-up cost of £0.75 million)

### **Social Security Fraud Act 2001**

- Two major means tested benefits (Housing Benefit and Local Authority Benefit) are administered by local authorities rather than by central Government
- Cost to local authorities: £1.65 million per annum

### **Social Security Fraud Act 2001 Manpower Implications?**

The legislation is “not expected to have any significant effect on public sector manpower”

### **Social Security Fraud Act 2001**

Cost Benefit Analysis  
Estimated Annual Gross Savings  
£200-400 million  
Estimated Annual Costs to Private Sector  
£2.5 – 7.6 million  
Estimated Annual Costs to Public Sector  
£5.30 million  
Manpower Implications: “not significant”  
But are there issues here?

### **Social Security Fraud Act 2001 Issues**

- Figures expressed in price terms for the 1999/2000 financial year but most of the legislation came into force in April 2002
- Figures are broad band approximations: gross savings have a 100% variable; private sector costs have a 300% variable

### **Social Security Fraud Act 2001 Issues**

- Manpower Implications “not significant”
- Department of Social Security has a large staff but
- discounting marginal cost is not an effective strategy for calculating costs

### **Football (Offences and Disorder) Act 1999**

- Introduced with Explanatory Notes which included financial costs and manpower implications
- Came into force in September 1999

### **Football (Offences and Disorder) Act 1999**

#### **Purposes of the legislation**

- to introduce further controls on football hooliganism in England and Wales (but not Scotland!), and amend relevant offences
- to extend controls on football supporters from England and Wales travelling to football matches abroad

### **Football (Offences and Disorder) Act 1999**

#### **Purposes of the legislation**

- to extend the statutory powers to make exclusion and restriction orders
- to broaden the scope of certain offences inside and outside football grounds

### **Football (Offences and Disorder) Act 1999**

- Courts to determine whether an exclusion or restriction order should be made when a person was convicted of a relevant football-related offence
- So “expected to be some increased costs for the courts and the Crown Prosecution Service, these are expected to be minimal”

### **Football (Offences and Disorder) Act 1999**

- The legislation increased the requirements for persons against whom orders are made to report to the police
- So calculated that this would “result in some additional costs but these are expected to be minimal”

### **Football (Offences and Disorder) Act 1999**

- Anticipated that the legislation would create additional work for the Restrictions Order Authority - the administrative body which administers the reporting scheme
- So it would have an additional costs of £100,000 p.a. and have to employ five additional staff
- Issues?

### **Football (Offences and Disorder) Act 1999**

#### **Issues**

- The approach to discounting marginal costs is variable
- taken into account for the Restrictions Order Authority
- but not for court system, prosecution service or police

### **Football (Offences and Disorder) Act 1999**

#### **Issues**

- the analysis is obviously incomplete
- it takes account of prosecution costs
- but fails to take account of defence costs which would almost certainly also be largely supported by public funds

### **Interim Observations**

- The analysis of financial and manpower implications is primarily for Parliament
- In consequence the Government may tend to minimise costs for political reasons

### **Interim Observations**

- If the calculations were more sophisticated they would be more expensive
- More sophistication might be justified in terms of legislation such as the Social Security Bill, but could hardly be justified for legislation of the nature of the Football Bill

### **Interim Observations**

- The value of the exercise is reduced if Parliament has limited resources and procedures to check the accuracy of the figures at the time they are published, or to consider later whether they proved to be an accurate forecast

### **Interim Observations**

- The economic arguments for establishing elaborate parliamentary machinery may not always be strong
- There is, after all, a danger in investing more in the procedure than in the product

### **Regulatory Impact Assessment**

- Tension between the private and public sectors has led to the development of techniques to measure the financial implications of imposing regulations
- In the United Kingdom, this is described as regulatory impact assessment

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

The Issue:

- Scrap metal dealers were regulated by statute (Scrap Metal Dealers Act 1964) but the motor salvage industry was not

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

- 2,500-3,000 motor salvage companies (including vehicle dismantlers) in the UK
- Estimated that up to 78,000 stolen vehicles and 12,000 insurance fraud vehicles go through these companies annually

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

The Objective:

- To reduce vehicle theft by making it more difficult to dispose of stolen vehicles, and assist the police and other authorities investigating such offences, and to reduce crime

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

The Risks:

- No identified additional risks for those who will be affected by the legislation
- Overall cost to society (including criminal justice costs) for each stolen vehicle estimated to be £4,700

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

- So, the estimated total annual cost of vehicles stolen for their parts or to be exchanged for a legitimate written off vehicle was approximately £367 million
- Insurance fraud vehicles would bring the total to approximately £424 million annually

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

The Options:

- (1) rely on present regulatory regime
- (2) apply a voluntary code of practice to the motor salvage industry (and scrap metal dealers)
- (3) apply a voluntary code supported by legislation
- Initial reactions?

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 1 – rely on present regulatory regime

- Motor salvage industry only regulated by national environmental protection legislation (the Environmental Protection Act 1990) and End of Life Vehicles Directive

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 1 – rely on present regulatory regime

- No perceived benefits of Option 1
- Option 1 estimated to have no impact on vehicle crime.
- No additional costs in adopting Option 1

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 2 - apply a voluntary code of practice to the motor salvage industry (and scrap metal dealers)

- Insurance industry (in relation primarily to the responsible disposal of vehicles written off by insurers) and the vehicle salvage industry have adopted a voluntary Code of Practice, but have a limited ability to “police” it

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 2 - apply a voluntary code of practice to the motor salvage industry (and scrap metal dealers)

- Code of Practice does not apply to about 30% of scrap metal dealers and up to 90% of the motor salvage industry

## **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 2 - apply a voluntary code of practice to the motor salvage industry (and scrap metal dealers)

- Option 2 would lead to those applying the Code of Practice to complain that significant parts of the industry were benefiting economically by not complying with the Code

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 2 - apply a voluntary code of practice to the motor salvage industry (and scrap metal dealers)

- Option 2 would have limited benefit in reducing vehicle crime – possibly 8,000 fewer vehicle thefts per annum, with a saving of £38 million
- Compliance costs would not be high because they would largely involve business records which were already maintained

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 3 - apply a voluntary code supported by legislation

- Option 3 would have the benefit of maximising the opportunities to reduce vehicle crime
- Particularly by making it more difficult to dispose of stolen vehicles and making it easier for the police to investigate offences

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 3 - apply a voluntary code supported by legislation

- Option 3 estimated to reduce vehicle thefts in the first year of operation by 15,000 – rising to 39,000 in the third year and thereafter

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 3 - apply a voluntary code supported by legislation

- This would create an initial economic benefit of £71 million – rising to £183 million annually
- An estimated additional benefit in the reduction of insurance fraud of £8 million per annum

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

Option 3 - apply a voluntary code supported by legislation

- Option 3 would have compliance costs for businesses registering under the legislation, making identification checks and assisting with enquiries, estimated to be £302,000 per annum
- These costs would not fall disproportionately on small businesses

### **Regulatory Impact Assessment**

Example: Regulating the Motor Salvage Industry

- So Option 3 recommended

### **Corporate Manslaughter and Corporate Homicide Bill**

- Re-introduced into the House of Commons in November 2006
- Explanatory Notes, containing financial and manpower implications published at the same time

### **Corporate Manslaughter and Corporate Homicide Bill**

- Currently, it is possible for corporate bodies to be prosecuted for a wide range of criminal offences, including manslaughter
- But it must be shown that there was a gross breach of the duty of care owed to the victim

### **Corporate Manslaughter and Corporate Homicide Bill**

- And a senior individual in the company with administrative and policy responsibility must also be guilty of the offence if the company is to be prosecuted as well for manslaughter
- Also public bodies (including Government Ministries) cannot be prosecuted for corporate manslaughter

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Purpose of the draft legislation**

- To create a new (less restrictive) offence of corporate manslaughter and for this to apply to companies and other incorporated bodies, Government departments and similar bodies and police forces

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Costs**

##### **Private Sector Costs**

- “Seeking legal advice and undertake additional training in preparation for the legislation”: “around £12 million” [on-going training?]

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Costs**

##### **Public Sector Costs**

- Prosecution Service Costs: £2 - 2.5 million
- Court Costs: £0.1 - 0.2 million

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Costs**

- Defence costs: £5 - 6.5 million per annum [based on an estimate of 10-13 additional corporate manslaughter cases p.a.]
- Presumably cases against both private and public sector enterprises (but not specified)

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Offsets to Costs**

- Legislation directed at behaviour which could already be prosecuted, so not all these costs would be additional costs
- Likely to be fewer cases of corporate manslaughter failing at court which currently can result in large sums being awarded by the courts to defendants in respect of costs

### **Corporate Manslaughter and Corporate Homicide Bill**

#### **Manpower Implications**

- Anticipated “small increased need for additional staff in the [English]Crown Prosecution Service as a result of the increase in the number of referrals and prosecutions taken forward”
- Likely to be only a small number of additional cases in Scotland and Northern Ireland each year (2 or 3), so “the work should be absorbed without the need for additional staff”

### **Corporate Manslaughter and Corporate Homicide Bill Regulatory Impact Assessment**

- The offence will apply to all corporate and many public bodies, and the police but
- it does not introduce new standards for the management of health and safety and therefore does not increase regulatory burdens for these organisations

### **Corporate Manslaughter and Corporate Homicide Bill Regulatory Impact Assessment**

- Cost of seeking legal advice and providing training in anticipation of the legislation coming into force, and of trial and prosecution: £19.2 - 21.2 million [reiteration of aggregate costs of legislation already presented?]

### **Corporate Manslaughter and Corporate Homicide Bill Regulatory Impact Assessment**

- Estimated societal cost of workplace accidents and ill-health: “£20 - 32 billion” [per annum? Not specified]
- Proposed legislation should encourage more rigorous compliance with other legislation on health and safety in the workplace

### **Corporate Manslaughter and Corporate Homicide Bill Regulatory Impact Assessment**

- Costs identified with the new offence amount to less than 0.1% of the costs of work-related accidents and ill-health
- So even a very small reduction in work-related deaths and injury as a result of better compliance would represent significant savings

### **Corporate Manslaughter and Corporate Homicide Bill ECHR Compliance: An Example**

- Does Art. 2 (right to life) create an obligation to introduce an offence of corporate manslaughter?
- If so, would any exemptions from the offence amount to a breach of Article 2?

### **Corporate Manslaughter and Corporate Homicide Bill ECHR Compliance: An Example**

- Decision of the Grand Chamber in the case of Oneryildiz v Turkey (App. No. 48939/99) suggests that in certain circumstances a criminal remedy must be available in cases of unintentional death

### **Corporate Manslaughter and Corporate Homicide Bill ECHR Compliance: An Example**

- However, the case concerned the prosecution of individuals and not legal persons
- No uniform practice in the rest of Europe in the application of the criminal law to legal persons or emanations of the State

### **Corporate Manslaughter and Corporate Homicide Bill**



### **ECHR Compliance: An Example**

- Conclusion: Does not therefore appear to be an obligation under the Convention for States to have an offence of corporate manslaughter and so any exemptions would not be a breach of ECHR