

## Summary: Intervention & Options

Department /Agency:  
HM Revenue and Customs

Title:  
Tax Law Rewrite Bill 5 (Corporation Tax)

Stage: Implementation

Version: 1

Date: 24 October 2008

Related Publications: [http://www.hmrc.gov.uk/ria/tlrproject\\_ria.pdf](http://www.hmrc.gov.uk/ria/tlrproject_ria.pdf)  
<http://www.hmrc.gov.uk/ria/20032682ria.pdf>; <http://www.hmrc.gov.uk/ria/it-tando-bill.pdf>; <http://www.hmrc.gov.uk/ria/final-fst.pdf>

### Available to view or download at:

<http://www.hmrc.gov.uk/ria/index.htm#full>

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### What is the problem under consideration? Why is government intervention necessary?

The existing legislation is generally perceived to be neither user friendly nor structured in a logical way. The Government made a commitment in 1996 to rewrite most direct tax legislation. Intervention is necessary because many users struggle to use existing legislation and may misinterpret it. The current approach to the taxation of business sees parallel rules in Income Tax and Corporation Tax (reflecting the fact that business may be incorporated or unincorporated). The tax code is currently written in two different forms; the original and the rewritten style. It is desirable to adopt consistent terminology for parallel rules, style and structure in order to avoid misunderstanding and to facilitate later amendments.

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

Rewriting existing legislation in modern language to make it clearer and more user friendly but without changing the law other than in a minor and agreed way. There will also be a more logical structure to the legislation, shorter sentences and better use of definitions. The intended outcome/result is a coherent tax code that is accessible to users.

### What policy options have been considered? Please justify any preferred option.

- 1) Apply proven rewrite style and format to the existing corporation tax legislation. This is the preferred option because it fulfils Government's commitment to rewrite direct tax legislation.
- 2) Do nothing.
- 3) Leave the legislation as it is and provide better guidance.
- 4) Consolidate the corporation tax legislation rather than rewrite it.
- 5) Rewrite corporation tax in rewrite style excluding specific areas.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The independent project Steering Committee have requested that a review of all rewritten legislation is made after the rewrite of corporation tax has been completed in 2010.

### Ministerial Sign-off For implementation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy and b) that the benefits justify the costs.*



Signed by the responsible Minister:

Stephen Timms MP .....Date: 12 November 2008

## Summary: Analysis & Evidence

<b>Policy Option:</b> Rewrite legislation	<b>Description:</b> Apply proven rewrite style and format to the existing Corporation Tax legislation.
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups'. One-off costs to business, tax professionals and agents of finding their way around the new legislation. An indicative estimation of 20 minutes each has been assumed, applying to just under one million practitioners (£17m total). Secondly, one-off HMRC resource costs of redrafting legislation, reproducing the Bill and publishing guidance (£6m total).				
	<table border="1" style="width: 100%;"> <tr> <td style="width: 60%;"><b>One-off</b> (Transition)</td> <td style="width: 40%; text-align: center;"><b>Yrs</b></td> </tr> <tr> <td style="background-color: #ffffcc;">£ 23m</td> <td style="text-align: center;">1</td> </tr> </table>		<b>One-off</b> (Transition)	<b>Yrs</b>	£ 23m	1
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£ Negligible						
<b>Total Cost (PV)</b>		£23m				
Other <b>key non-monetised costs</b> by 'main affected groups' There will be a negligible ongoing cost from minor agreed changes.						

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'  Monetised benefits relate to the ongoing time saved by business in dealing with their Corporation Tax affairs. An indicative saving of 30 minutes per year per business has been assumed, applying to just under one million businesses (£25m total).				
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£ 25m						
<b>Total Benefit (PV)</b>		£ 115m				
Other <b>key non-monetised benefits</b> by 'main affected groups' Ongoing benefits for tax professionals and agents stemming from clarification of existing law, clearer future amendments, quicker to find and understand provisions. The legislation is more accessible to practitioners newly dealing with Corporation Tax. Valuable lessons have been learned for future drafting.						

### Key Assumptions/Sensitivities/Risks

Unintentional changes in law may have been made. A large amount of work was involved for consultees. There should be no changes to overall tax yield. No change in agents' fees or in the use of agents has been assumed as a result of the legislative rewrite.

Price Base Year 2008	Time Period Years 5	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £ 92m
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What is the geographic coverage of the policy/option?	UK								
On what date will the policy be implemented?	1 April 2009								
Which organisation(s) will enforce the policy?	HMRC								
What is the total annual cost of enforcement for these organisations?	£								
Does enforcement comply with Hampton principles?	Yes								
Will implementation go beyond minimum EU requirements?	N/A								
What is the value of the proposed offsetting measure per year?	£ 0								
What is the value of changes in greenhouse gas emissions?	£ 0								
Will the proposal have a significant impact on competition?	No								
Annual cost (£-£) per organisation (excluding one-off)	<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 25%;">Micro</td> <td style="width: 25%;">Small</td> <td style="width: 25%;">Medium</td> <td style="width: 25%;">Large</td> </tr> <tr> <td style="background-color: #ffffcc;">No</td> <td style="background-color: #ffffcc;">No</td> <td style="background-color: #ffffcc;">N/A</td> <td style="background-color: #ffffcc;">N/A</td> </tr> </table>	Micro	Small	Medium	Large	No	No	N/A	N/A
Micro	Small	Medium	Large						
No	No	N/A	N/A						

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	<b>Net Impact</b> £ Nil

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

### The problem and the reason for the legislation

1. The source legislation lacks clarity and logical order. This leads to mistakes and wasted resources. A Government commitment was made in 1996 to rewrite all of the direct tax legislation and this continues to have full cross-party support.
2. HMRC priorities are to improve customers' experience of dealing with the Department, to increase levels of compliance and to improve its internal cost effectiveness.
3. The project has so far rewritten the Capital Allowances Act 2001 and the income tax code in three previous Acts, the Income Tax (Earnings and Pensions) Act 2003 (ITEPA), the Income Tax (Trading and Other Income) Act 2005 (ITTOIA), and the Income Tax Act 2007 (ITA). The project has also rewritten the PAYE Regulations in response to requests from users and representative bodies. These Regulations (SI 2003/2682) came into force in April 2004.
4. The risk of not rewriting Corporation Tax legislation in Bill 5 is that users will continue to struggle to understand the primary legislation or will misunderstand it.
5. Bill 5 has been drafted to reflect the approach adopted in ITTOIA to ensure consistency and ease of reference especially where provisions cover similar ground.
6. As the Bill only rewrites existing legislation and does not change the law (except for minor identified changes at the margins intended in the main to bring clarification or consistency or to bring the law into line with well established practice), there has been only limited consultation within government.
7. The report of the last Joint Committee meeting which was held on 24 January 2007 to look at the Income Tax Bill, states that the Chairman of the Committee, the Rt Hon Kenneth Clarke QC, MP congratulated the project on putting income tax law into one body of clear legislation. He also acknowledged the project's attention to detail in order to get things right.
8. The Committee also said that it was of the opinion that 'the Bill is a welcome clarification of the existing law and will be easier to use and more accessible to Parliament, the judiciary, informed professionals, business people and other users of the legislation' and went on to say 'The Committee looks forward to the preparation of future Bills under the auspices of the Tax Law Rewrite Project.'

### Policy objectives and intended effects

9. The Tax Law Rewrite project (the project) aims to rewrite legislation so that it is clearer and easier to use, without changing or making less certain its general effect.
10. The project was set up in 1996. Its key objectives and characteristics are:
  - a) clearer, more user-friendly tax legislation
  - b) a new more logical structure for rewritten legislation
  - c) shorter sentences and harmonisation of definitions
  - d) use of modern language, as long as this can be done without changing the law or making its effect less certain
  - e) better signposts and similar rules grouped together, to make rules easier to find
  - f) no change in the underlying tax system (but the work of the project will not prevent any such changes)
  - g) some minor changes, where they further improve the legislation

- h) consultation with interested parties throughout the life of the project
  - i) a specific streamlined Parliamentary procedure for enactment of rewrite Bills.
11. The project has rewritten the legislation covering Income Tax in a series of three Bills. It is now turning its attention to the rewrite of corporation tax and this will be spread over two Bills of which Bill 5 is the first.
  12. The risk of inadvertent changes is mitigated by the “continuity of law provisions” contained in the Bill, and by the ability of the government to use powers in the Bill to amend legislation by regulations to that end.
  13. Full consultation with interested parties has been a key feature of the project. It has been conducted on a structured and published timescale agreed by the project’s Consultative and Steering Committees.
  14. There are two outside Committees which are concerned with the workings of the project. They are:
    - a) the Steering Committee, which provides strategic guidance to the project. Its members include MPs, the judiciary, and representatives of the legal and accountancy professions and consumer interests.
    - b) the Consultative Committee, whose role is to ensure continuous consultation on the rewritten law with all the main private sector interests. Its members include representatives of the CBI, CIOT, ICAEW, ICAS, ACCA, Law Society, the Federation of Small Businesses and other bodies.
  15. The comprehensive consultation process has allowed the project to ensure, as fully as possible, that it has not changed the law in any way other than through minor identified changes (such as the incorporation of extra-statutory concessions or dropping redundant material) to improve the legislation.

## Policy appraisal

16. Five possible options were considered:

(i) Apply proven rewrite style and format to the existing Corporation Tax legislation

There is a clear Government commitment to rewrite primary direct tax legislation. The project was set up to do this and for example has successfully rewritten income tax as evidenced by market surveys. This Bill will underpin the commitment and provide rewritten legislation for companies.

(ii) Do nothing

Some source legislation for this Bill covered both Income Tax and Corporation Tax. With the separation of these codes, Income Tax is now in rewrite style, but the same legislation, if not rewritten for Corporation Tax, would remain in the ‘old’ style. Businesses may be incorporated or unincorporated and it is desirable to adopt consistent terminology for parallel rules’ style and structure in order to avoid misunderstanding and to facilitate later amendments through Finance Bills.

If the Government commitment is to be met, the task of rewriting Corporation Tax must be completed. The reactions to draft clauses included in consultation documents have mainly been positive and it is clear that support remains throughout most of the tax community for the rewrite of corporation tax.

Failure to complete this job would incur the risk outlined in 4) above.

(iii) Leave the legislation as it is and provide better guidance

An overhaul of the guidance to existing Corporation Tax legislation would be a costly and time consuming exercise. It would be unlikely to provide satisfactory clarification where the

legislation is particularly complex or confusing. If the source legislation remained unchanged, the updated guidance would have to reflect the lack of clarity in the source legislation. This is not a realistic option.

(iv) Consolidate the Corporation Tax legislation rather than rewrite it

Consolidation would take fewer resources within HMRC, Parliamentary Counsel and from consultees. But it would not meet the needs of those users of the legislation who find the existing legislation completely inaccessible or time consuming and difficult to understand and comply with. It would also be extremely difficult to deliver because the income tax code and the corporation tax code would be out of step and it is therefore not a realistic option.

(v) A small number of specialist correspondents suggested that specific areas of corporation tax (notably loan relationships and derivative contracts) in which they had a specialist interest could be left unrewritten. This would not meet the needs of the large numbers of users of these aspects of the legislation who do not have the same degree of specialist expertise, so is not a realistic option.

## **Review of policy**

17. The project carried out a stock take in late 1998, sending a questionnaire to some 200 people involved in the consultative process. They were asked about the likely costs and benefits of the project. All agreed that it would be difficult to quantify most of the costs in advance, and all but impossible to arrive at any objective measure of the benefits. But most interested parties still firmly believe that any costs will be more than outweighed by the benefits flowing from the project.
18. When the Capital Allowances Act 2001 had been in existence for some time giving tax practitioners the chance to experience how it worked in practice the project's Steering Committee felt that it was appropriate to assess its effectiveness. Research showed that it was well received both outside and within HMRC.
19. Similarly, research showed the project's first and second Income Tax Acts known as ITEPA and ITTOIA were equally well received. For example the Institute of Chartered Accountants in England and Wales (ICAEW) described the ITEPA as 'another step forward in improving the intelligibility of United Kingdom tax legislation in areas of the law that affect a large number of taxpayers'. Of ITTOIA they said 'the draft Bill was well constructed and we commend its drafting. It covers important ground and as it facilitates taxpayers' easier understanding of legislation which will affect very many of them, it is a useful addition to the rewritten legislation'.
20. The Income Tax Act 2007 brought together various pieces of legislation and completed the project's successful rewrite of Income Tax.
21. The benefits of the Corporation Tax Bill are likely to be widespread affecting nearly a million companies, over 90 per cent of which are small.
22. The project has looked at the benefits and costs by reference to the main groups affected by the Bill such as;
  - a) tax professionals working in-house as tax managers within companies or as agents or other intermediaries
  - b) advisors within the legal and accountancy profession
  - c) HMRC staff.
23. The benefit to this broad group of users will come from the clarification of existing law and the clearer expression of future changes to that law. They potentially include:
  - a) less time consuming legislation and fewer errors caused by misunderstanding of the law
  - b) fewer issues on which time needs to be spent on obtaining specialist advice

- c) less resource expended on queries about interpretation
  - d) fewer disputes with HMRC about the meaning of legislation; and
  - e) less time for training of new professionals.
24. One indication of the impact of the project is that most users' representatives continue both to support the project and to contribute substantially by commenting on draft clauses and other publications.
  25. It is very difficult to quantify the actual benefits to users of a particular body of rewritten legislation until it has been in force for some time.
  26. The project has recently proposed, in consultation with its Steering Committee, that a more valuable and significant result would be obtained by evaluating all the rewritten legislation after the final Corporation Tax Bill is enacted.

## **Benefits**

### **Key monetised and non-monetised benefits**

27. Many companies make use of highly skilled and experienced external tax professionals and agents to provide advice and interpret the legislation. Under the umbrella term 'company' are also included clubs and unincorporated associations, most of which are very small.
28. For those businesses employing the services of external tax professionals and agents the greatest benefit will be derived from the greater ease of use for their advisors. Past market surveys have demonstrated that previously rewritten legislation is clearer and easier to use. This should mean fewer disputes and less litigation. Nevertheless this Impact Assessment adopts the cautious assumption that there will be no expected reduction in the overall level of fees paid by businesses to agents.
29. Some companies will also be able to consult the legislation themselves to resolve more straightforward questions and ultimately be able to benefit from more user friendly software based on the rewritten legislation. It is not possible to quantify the number who may take this route. This Impact Assessment adopts the cautious assumption that there will be no switching away from using an agent as a result of the tax law rewrite.
30. HMRC are in a similar position to other tax professionals. Clearer legislation is likely to reduce the number of disputes over interpretation and the number of cases which need to be referred to a specialist for a definitive ruling. We have not attempted to monetise the value of this benefit. Training and guidance material should be easier to use and more straightforward to produce. Moreover, as the legislation becomes easier to understand, more resources can be released to concentrate on other issues, for example the provision of better guidance.
31. Those businesses which do not use external tax professionals and agents should benefit directly as a result of the legislative rewrite. The nature of these savings is likely to be similar to those outlined above, i.e. reduced time spent navigating, understanding and applying the legislation correctly as a result of its improved ease of use.
32. Our analysis shows that small companies do not have significantly fewer sources of income than others and therefore 'small' does not always mean 'simple'. In other words we anticipate that the legislative rewrite should in principle benefit all sizes of business.
33. In order to monetise these benefits we have applied an average saving of half an hour per year per company, which is an approximation over the medium-term life of all sizes of company, giving an overall saving of 491,939 hours. Using a cost of £50 per hour, this would produce a saving of £25m based on a total number of relevant companies of just under one million as shown in the following table. The business population figures were extracted from HMRC's own analysis of Companies making Corporation Tax returns.

34. It must be emphasised that these savings are purely indicative. They stem from industry views which were passed to HMRC during the in-depth consultations which took place with tax professionals. They apply both to businesses which use external agents and to those which do not. In some cases the savings per business will be far more significant, for example large complex businesses with many in-house tax professionals; in other cases savings may be one-off rather than ongoing, or might not arise at all, for example simple small businesses which employ an external agent. An accurate in-depth breakdown of the savings by size and type of business, and by business circumstance, has not been possible. Nevertheless we consider that this aggregate figure provides an appropriate indication of the extent to which the benefits of this initiative justify the costs.

<b>Company size</b>	<b>Number of companies with a turnover greater than zero</b>
<i>Total for Small Size Companies:</i>	929,665
<i>Total for Medium Size Companies:</i>	29,778
<i>Total for Large Size Companies:</i>	24,436
<i>Overall Total (all sizes):</i>	<b>983,879</b>

35. The savings may be far greater during the initial phase of the life of a business than when it is established. During both 2005 and 2006 there were around 182,000 business registrations and 143,000 VAT de-registrations for the same years.

### **Other non-monetised benefits**

36. The complexity of Corporation Tax legislation is greater than that for Income Tax. Corporation tax legislation has to be able to cater for extremely complicated things that are part of the affairs of some companies. As an example, the legislation on derivative contracts has to cope with complex financial instruments. A benefit for small company users may be in realising which legislation applies to them and which they do not need to consider. This may not always have been apparent prior to the rewrite.
37. For a variety of reasons in the past few years small businesses have incorporated regardless of any expectation of growth and the need to finance that growth. This has meant that accountants and advisors who may previously have dealt only with income tax have recently had to master corporation tax, with all its complexities. On the experience of surveys from previously rewritten legislation which show that it is easier to understand and use, it is possible that the benefits of the rewritten Corporation Tax legislation will be more readily apparent for these users.
38. UK Corporation Tax is a matter of international as well as national concern. This arises both as a competitive matter: should a company be a UK company rather than one registered and/or or resident elsewhere; and also as a practical matter - dealing with problems as the UK Corporation Tax interacts with similar taxes in other jurisdictions through the European Union's rules, double tax agreements or in specific double tax claims and negotiations. Having a clear corporate law that can be understood by overseas companies and advisers is therefore a matter of importance.
39. Lessons have been learned from successful rewriting and these can be developed into best practice for the production of tax legislation in the future.

## Costs

### Key monetised and non-monetised costs

40. The first Corporation Tax Bill is concerned with arriving at the overall profits of a company and the provisions apply to all companies, clubs and unincorporated associations.
41. Although there is no major change to the underlying tax system, there will be some one-off costs to businesses and to tax professionals and agents in terms of familiarisation with the new structure, section numbers and language used in the Bill. In essence this relates to the costs to practitioners of finding their way around the new legislation. We have aimed to minimise these costs by including a number of tables in the legislation and guidance which show where various provisions have been relocated. There will also be some impact from the minor agreed changes made by the Bill. However, because the underlying legislation is not changing significantly, the impact on the administrative burden is likely to be negligible.
42. These one-off familiarisation costs are difficult to estimate, as they will vary depending upon the nature of the business and the nature of the agent. We have applied these costs to the same business population (around 985,000) which benefits from this reform and also to the estimated population of Corporation Tax agents (around 37,000). We have assumed an average illustrative familiarisation time of twenty minutes each, applied to an hourly cost of £50, generating a one-off cost of £17m.
43. As with the benefits figures, it should be emphasized that these costs are purely indicative, and that the actual costs per business and per agent will vary significantly around this assumed illustrative mid point. Nevertheless we consider that these figures portray a reasonable indication of the relativities involved, i.e. that the one-off costs to business should be lower than the annual benefits.
44. We have also provided a Net Present Value calculation over a 5 year time frame, reflecting an assumption that we are not expecting any further significant legislative rewrite in this area for at least the next 5 years (and probably for much longer).
45. People new to tax should need less time than at present to learn the legislation - for example trainee accountants and HMRC staff.
46. Compared to the option of doing nothing, the cost to HMRC in implementing the policy decision to produce the first Corporation Tax Bill was approximately £6m spread over the years up to 2009. Some of these costs would have been incurred within the next five years or so if the alternative option of consolidating corporation tax legislation, rather than rewriting it, had been viable and had been adopted.
47. There are some costs to HMRC in the use of policy specialists' time in reviewing the draft clauses for operational implications.
48. There will be a small cost to HMRC in updating the relevant parts of the guidance manuals and internal training material. But this is done on a regular basis in any event.
49. Policy costs represent the essential costs of meeting policy objectives. Because the rewrite of this legislation does not involve changes in the law, apart from some minor ones, policy costs arising from the rewrite will be minimal.
50. Commercial publishers and software suppliers will need to update their products. These costs are likely to be passed on to the end users but, as many of these are updated on an annual basis in any event, the level of extra costs passed on should be minimal.
51. Reproducing the Bill and detailed guidance material might cost the two major publishers up to £50,000 each. To the extent that the Bill obviates the need for consolidation of ICTA, this is not all additional cost.
52. **Small Firms Impact Test**
  - The Bill will affect all businesses including those with 20 or fewer employees.

- HMRC has well established links with organisations representing small businesses. The project has worked with specialists throughout the Department in developing the rewritten legislation and the impact on small businesses was considered at all stages.
- More specifically, a member of the Federation of Small Businesses serves as a member of the Consultative Committee and has had the opportunity to review all the rewritten legislation in this Bill.

The project concluded that as the Bill does not materially change the law, the position of small businesses will remain much as before. They will have to familiarise themselves with the rewritten legislation but will benefit from legislation that is easier to use.

53. Inevitably, some costs in terms of time expended have fallen on the tax professionals and representative bodies that have taken part in the consultation process. Again, these costs are difficult to quantify but we have estimated them to be around £1m. Those consulted continue to urge the project to maintain the same level of consultation. Consultation costs are not normally classed as business compliance costs but the level of industry input in this exercise warrants a particular mention.

### **Key assumptions/sensitivities/ risks**

54. The first Corporation Tax Bill extends to over 1300 clauses and is the largest Bill that the project has produced so far. The accelerated Parliamentary process to which Tax Law Rewrite Bills are subject relies on wide consultation on all draft clauses and agreement to any proposed minor changes. This has meant much larger volumes of work for our consultees and the project has worked closely with them to manage the process.
55. Although the project has a proven and robust system of consultation on draft clauses, mistakes inevitably happen. A significant risk in rewriting legislation is that an unintended change in the law could result. Any inadvertent errors will as in previous rewrite legislation, be corrected using special powers contained within the Bill. The project has identified only a small number of such errors in previous rewrite Acts.
56. As the Bill rewrites legislation without making significant changes, there is no impact on overall tax yield or on the business admin burden as measured by the Standard Cost Model, which relates to the cost to business of disclosing information to HMRC or to third parties.

### **Competition**

57. This measure has no restrictive impact on competition; if there is any effect it would be pro-competition, as it will reduce the difficulty encountered by potential new entrants to the tax agency business (by making it easier for such service providers to attain the requisite knowledge of the legislation). However, the Government has not sought to quantify any such possible effect or place reliance on it.

### **ECHR**

58. As with previous Bills we are considering human rights issues but we do not expect any problems in this area.

### **Specific impact tests**

59. We have considered other impacts and as this Bill is not intended to change the law but to express it more clearly, we do not consider that any of them will apply differently. The project has received no feedback from consultation to indicate that this will not be the case.

## Specific Impact Tests: Checklist

### ANNEX A

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	Yes	No
Rural Proofing	No	Yes