

**EXPLANATORY MEMORANDUM TO**  
**THE FACTORIES ACT (NORTHERN IRELAND) 1965 AND OFFICE AND**  
**SHOP PREMISES ACT (NORTHERN IRELAND) 1966 (REPEALS AND**  
**MODIFICATIONS) REGULATIONS (NORTHERN IRELAND) 2011**

**S.R. 2011 No. 283**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“DETI”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 17(1) and 3 (c) of the Health and Safety at Work (Northern Ireland) Order 1978 (“the 1978 Order”) and is subject to negative resolution procedure.

**2. Purpose**

- 2.1. This Statutory Rule removes the following requirements which apply to most businesses operating from a factory, office or shop in Northern Ireland:
  - Premises notification – employers are currently required to complete a form to notify the Health and Safety Executive for Northern Ireland or their District Council of any factory, office or shop premises where employees work; and
  - The General Register - factory employers are required to keep a set of records and forms called the general register.
- 2.2. The Regulations repeal the notification and general register requirements contained in the Factories Act (Northern Ireland) 1965 and the notification requirements of the Office and Shop Premises Act (Northern Ireland) 1966. The Regulations introduce no new duties.

**3. Background**

- 3.1. The Health and Safety Executive for Northern Ireland and District Councils are, between them, responsible for enforcement in nearly all places of employment. They need data on businesses in order to target their interventions to those that present the greatest risk
- 3.2. Currently, section 137 of the Factories Act (Northern Ireland) 1965 and section 48 of the Office and Shop Premises Act (Northern Ireland) 1966 require employers to give notice to the relevant enforcing authority before occupying a factory or employing, subject to certain exemptions, a person in an office or shop premises.

- 3.3 Section 140 of the Factories Act (Northern Ireland) 1965 currently requires that a record known as the **general register** be kept in every factory. The Factory General Register Order (Northern Ireland) 1966 (S.R. & O. (N.I.) 1966 No. 304) sets out the detailed contents of the general register and the form on which the required information has to be recorded. The register's original purpose was to record information about an employer's compliance with factory legislation, to be kept available for inspection by a factory inspector.
- 3.4 However, as modern health and safety legislation replaced the requirements of the Factories Act (Northern Ireland) 1965, the relevance of the general register gradually declined. Although some parts of the general register have been removed over the years as legislation changed, vestiges remain today and an employer is still technically obliged to keep it.
- 3.3 The Health and Safety Executive for Northern Ireland considers these notification, record keeping and form filling requirements are no longer relevant to health and safety, and impose unnecessary administrative burdens on business. In relation to the notification requirements, business information has, for some time now continued to be up-dated using a range of other information sources. The general register record keeping requirement has been superseded by modern health and safety legislation.
- 3.5 The amending regulations preserve requirements which still have merit, i.e. the requirement for gasholder inspection records to be kept available for inspection and the Employment of Women, Young Persons and Children's Act 1920 requirement for a register of employed persons under 16 years of age to be kept available for inspection.

#### **4. Consultation**

- 4.1 The Health and Safety Executive for Northern Ireland published a consultation document on 22 November 2010 detailing its preferred option of repealing the premises notification and general register requirements entirely. There were approximately 600 consultees and the consultation ran until 14 February 2011. Consultees included district councils, business and industry associations, trade unions and campaign groups. A total of 5 responses were received none of which raised any objections to the proposals.

#### **5. Equality Impact**

- 5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

#### **6. Regulatory Impact**

- 6.1 Businesses, charities and voluntary bodies will no longer be required to notify their premises to a health and safety authority. Additionally, factory employers will not be required to keep the general register.

## **7. Financial Implications**

- 7.1 The impact assessment prepared for the Great Britain Regulations is attached. It concluded that repealing the general register and GB Factories Act 1961 and Office, Shops and Railway Premises Act 1963 notification requirements entirely would reduce the administrative burden on business by £21m per annum.
- 7.2 With the exception of references to railway premises the analysis and considerations set out in the GB impact assessment can be applied directly to Northern Ireland and on a proportionate basis the savings through the reduced administrative burden for businesses should amount to approximately £525, 000 per year. Some minor familiarisation costs for businesses to take account of the abolition of these requirements would be anticipated. The Health and Safety Executive for Northern Ireland and District Councils would also incur some minor costs in revising procedures and up-dating websites.

## **8. Section 24 of the NI Act 1998**

- 8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

## **10. Parity or Replicatory Measure**

- 10.1 In Great Britain the corresponding Regulations are the Factories Act 1961 and Offices, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations 2009 which were made on 10 March 2009 and came into force on 6 April 2009.
- 10.2 The proposals to repeal the notification and general register requirements contained in the Factories Act (Northern Ireland) 1965 and the Office and Shop Premises Act (Northern Ireland) 1966 do not differ in any significant way from repeal of the corresponding provisions of the (GB) Factories Act 1961 and (GB) Offices, Shops and Railway Premises Act 1963. Such differences as do occur relate only to Northern Ireland legislation and Institutions.

## **11. Additional Information**

- 11.1 Not applicable.

Department of Enterprise, Trade and Investment

July 2011

**FACTORIES ACT (NORTHERN IRELAND) 1965 AND OFFICE AND SHOP  
PREMISES ACT (NORTHERN IRELAND) 1966 (REPEALS AND  
MODIFICATIONS) REGULATIONS (NORTHERN IRELAND) 2011**

**NOTE ON COSTS AND BENEFITS**

1. I declare that :
  - a. the purpose of the Factories Act (Northern Ireland) 1965 and Office and Shop Premises Act (Northern Ireland) 1966 (Repeals and Modifications) Regulations (Northern Ireland) 2011 (“the Northern Ireland Regulations”) is to replicate, for Northern Ireland, the provisions of the Great Britain Factories Act 1963 (Repeals and Modifications) Regulations 2009 (S.I. 2009/605) (“the Great Britain Regulations”); and
  - b. I am satisfied that the costs and benefits associated with the Great Britain Regulations may be applied, with modifications to the Northern Ireland Regulations.
2. An estimate of the costs and benefits associated with the Great Britain Regulations, together with the effect on the Northern Ireland costs and benefits is appended to this Note.
3. There is no impact on charities, social enterprise or voluntary bodies.

*M Bohill*  
Department of Enterprise, Trade and Investment

July 2011

## PART I

### **GREAT BRITAIN IMPACT ASSESSMENT (FINAL)**

(Prepared by the Health and Safety Executive)

#### **The Factories Act 1961 and Offices, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations 2009 (S.I. 2009/605) (“the GB Regulations”)**

1. The following pages contain a copy of the Impact Assessment, prepared by the Great Britain Health and Safety Executive, in respect of the GB Regulations.
2. The Impact Assessment concluded that repealing the general register and the Great Britain Factories Act 1961 and Office, Shops and Railway Premises Act 1963 notification requirements entirely would reduce the administrative burden on business by 21m per annum. It concluded also that there would be some minimal familiarisation costs for businesses to take account of the abolition of these requirements. In addition, both HSE and Local Authorities would incur some minor costs in revising procedures and removing information from websites and other information services.

## Summary: Intervention & Options

<b>Department /Agency:</b> Health & Safety Executive	<b>Title:</b> Impact Assessment of repealing notification and record keeping requirements for factories, offices and shops	
<b>Stage:</b> Final Proposal	<b>Version:</b> 3.2	<b>Date:</b> 25 November 2008
<b>Related Publications:</b> HSE Simplification Plan; Consultative Document		

Available to view or download at:

<http://www.hse.gov.uk/simplification/>; <http://www.hse.gov.uk/consult/condocs/cd219.htm>

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

Legislation requires businesses employing staff in factory, shop, office and in certain railway premises, to notify the Health and Safety Executive (HSE) or their local authority before they commence operations from those premises. Factory employers must also keep a record called a "general register". The requirements have been overtaken by modern health and safety intelligence gathering arrangements and legislation. In addition, they do not apply consistently to all work premises. HSE considers they have little current relevance to maintaining health and safety at work and impose unnecessary and burdensome form filling and notification requirements on business. HSE proposes to seek the abolition of these requirements.

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

To repeal outdated legislation, remove unnecessary administrative burdens on business and to allow the resources of duty holders, HSE and of local authorities to be better focussed on important workplace health and safety issues. This is consistent with HSE's commitment to deliver better, smarter legislation that is easier to understand and apply.

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

After early consideration of a range of options, the following have been considered in detail:

Option 1 – Do nothing – continue with the existing legislative provisions (ie, the status-quo, with no impact on costs or benefits).

Option 2 – Repeal the premises notification and general register requirements entirely. **This is our preferred option.** We believe the requirements are redundant - good public administration and regulatory practice demand that outdated regulation or information obligations be repealed or updated. Removing these requirements would not reduce health and safety standards.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? HSE will evaluate the effect within three years after implementation.

### Ministerial Sign-off For final proposal/implementation stage Impact Assessment:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

.....Date: March 2008

## Summary: Analysis & Evidence

<b>Policy Option: 2</b>	<b>Description:</b> Repeal the FA and OSRPA premises notification and general register requirements entirely.
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' The abolition of the general register would result in an annual cost saving to business of £8.3m. Removal of the current factory and other premises notification requirements would result in an annual cost saving to business of £12.7m.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£ <b>0m</b>		
	<b>Average Annual Cost</b> (excluding one-off)		
£ <b>-21m</b>	1	<b>Total Cost (PV)</b>	<b>£ -21m</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	£ <b>0</b>		
	<b>Average Annual Benefit</b> (excluding one-off)		
£ <b>0</b>		<b>Total Benefit (PV)</b>	<b>£ 0</b>
Other <b>key non-monetised benefits</b> by 'main affected groups'			

### Key Assumptions/Sensitivities/Risks

This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME), which are **indicative only** as they derive from small samples that are not statistically valid. In addition, the ABME **assumed full compliance** with each regulatory requirement.

Price Base Year 2005	Time Period Years 1	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	Great Britain			
On what date will the policy be implemented?	06 April 2009			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro <b>0</b>	Small <b>0</b>	Medium <b>0</b>	Large <b>0</b>
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of	£ 0	Decrease of	£ 21m
		<b>Net Impact</b>	<b>£- 21m</b>

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

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment considers proposals to remove the form filling and record keeping requirements of the Factories Act 1961 (the FA) and the Offices, Shops and Railway Premises Act 1963 (OSRPA).
2. **Consultation update:** *HSE invited comments on its proposals and the 'consultation stage' impact assessment through a formal consultation conducted between 7 August and 14 November 2008. A total of 265 responses were received, although few commented on the impact assessment. Following consultation, HSE believes the **cost and benefit estimates remain valid**. Specific comments and conclusions are covered below under the relevant headings.*

### Background

3. The FA and OSRPA impose certain notification and record keeping requirements on most businesses in Great Britain that employ people.
4. The FA requires the occupier, usually an employer, of factory premises to give not less than one month's notice to HSE before occupying or using the premises as a factory - HSE publishes the F9 form for this purpose. If already using the premises, the employer must give one month's notice before using any "mechanical power" in the premises.
5. A factory business can apply to HSE for permission to shorten the one-month notice period.
6. A factory must also keep a record of certain information called the "general register" - a set of forms is prescribed for the purpose. A factory employer must send an HSE inspector extracts from the register if requested.
7. Most of the legislation linked to the general register requirement has been replaced making the register obsolete in practice.
8. The OSRPA requires most businesses intending to employ staff in office or shop premises to notify the authority responsible for enforcing health and safety legislation in those premises (usually the local authority) before they employ staff in the premises. The notification must be given on a form prescribed under OSRPA known as the OSR1.
9. HSE and local authorities generally include the information from the F9 and OSR1 forms on their databases of premises for which they have health and safety enforcement responsibilities.
10. The OSRPA also requires railway operators employing staff in premises (other than offices and shops), such as signal boxes or other buildings close to the railway line, to notify those premises using form OSR7. This requirement has fallen entirely into disuse and the form is no longer published.
11. **Annex A** of this impact assessment contains more detailed background on the current legal framework and a summary of the proposed changes.

### Rationale for Government Intervention

#### *Rationale for the legislation*

12. The key purpose of the factory, office and shop premises notification requirements is to provide authorities responsible for enforcing health and safety in those premises with information about the location and the number of premises. Authorities can then plan and prioritise their enforcement activities.
13. The general register requirements derived from 19<sup>th</sup> century factories legislation that required factory employers to record details of their compliance with factory health and safety legislation on forms kept in a register, and for the register to be available for

inspection by a factory inspector. The general register has now effectively been superseded by modern legislation including the Health and Safety at Work etc Act 1974 (HSWA) and its regulations.

#### *Rationale for reviewing the legislation*

14. The Health and Safety Executive has committed to work towards a 25% target reduction in administrative burdens by May 2010 and has published a Simplification Plan<sup>1</sup> to help it meet this goal and report on progress. The plan includes reviewing some requirements on employers to provide information or keep records - looking at how we might reduce them without loss of health and safety protection.
15. The removal of forms which are outdated, unnecessary or which duplicate other requirements was also a recommendation of the Hampton review<sup>2</sup>.
16. The Regulators' Compliance Code<sup>3</sup> is also relevant. It incorporates principles drawn from the Hampton review. HSE and other regulators must have regard to the Code provisions, which include standards to be taken into account when placing information requirements on business.
17. The Code also includes strategies to reduce form filling and record keeping obligations by using better regulatory practices. If, for example, a regulator keeps the same information on businesses on several independent databases (ie each linked to a separate function of the regulator), they should consider sharing that data so that a business only need provide it once. Regulators should also only collect data when justified by impact assessment. These strategies can help regulators reduce the overall administrative burden on business.
18. HSE also has a responsibility to make sure its legislation is as clear, coherent and comprehensible as possible. If we can identify and remove laws that have become redundant or superseded, the law becomes less complex and it takes less time and money to understand it. Businesses should not have to wade through legislation which may no longer be relevant to find out what their obligations are.
19. We envisage the main benefits of reviewing the FA and OSRPA requirements to be:
  - Simplification of health and safety legislation by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection.
  - Reduction of the frequency of requests for similar data from the same businesses by government authorities.
  - Elimination of requirements that could stop or delay new businesses from starting up and employing staff without prior notice to a government authority.
  - Enabling business and enforcing authorities to better focus health and safety resources on reducing risks at workplaces.
  - Stimulating discussion on how health and safety enforcing authorities can maintain effective databases of premises using technology and practical strategies so they can target enforcement resources most efficiently.
20. Any reduction of administrative burdens will particularly benefit small businesses, a high proportion of which are subject to the existing premises notification requirements.

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## **Options**

21. In addition to Options 1 and 2, set out later in this impact assessment, we initially considered and **rejected** two further options: (A) abolishing the general register but updating the OSR1 and F9 forms to make them easier to complete; and (B) abolishing the general register but extending the premises notification requirements to all businesses.

<sup>1</sup> <http://www.hse.gov.uk/simplification/>

<sup>2</sup> *Reducing administrative burdens: effective inspection and enforcement* HM Treasury, 2005

<sup>3</sup> *Regulators' Compliance Code*, Department for Business, Enterprise & Regulatory Reform, 2007.

22. Although option (A) would have made it less time consuming for businesses to complete the forms, resulting in some cost savings for business, it would of course have preserved the administrative burden for redundant requirements that serve no practical health and safety purpose.
23. Option (B) was based on the views of a small number of local authorities, obtained in our initial consultations. While conceding the problems of the current notification regime, they felt that a blanket obligation on all businesses would increase the accuracy and currency of premises databases.
24. They also argued that this would better align the notification requirements with the premises coverage of the more modern HSWA - while the HSWA applies to all employers, the FA and OSRPA notification requirements do not. The OSRPA excludes office or shop premises in which the proprietor employs close family members or where the total hours worked by all employees is normally not more than 21 hours per week. Self-employed people who operate from their own premises are also not covered by the FA and OSRPA requirements.
25. As mentioned earlier, HSE and local authorities must have regard to the Regulators' Compliance Code when placing information requirements on business; HSE is also committed to removing unnecessary administrative burdens. Option (B) would increase the existing administrative burden on business, with little or no justification - HSE and many local authorities already obtain premises data in other ways. For these reasons, HSE concluded that it would be inappropriate to develop this option further.
26. The two options that we considered in this Impact Assessment are outlined below.

### **Option 1 – Do nothing – continue with the existing legislative provisions**

27. Doing nothing would leave the notification, forms and record keeping requirements in place. We do not see this as a feasible option, but it serves as a base case against which the other option is compared.
28. Good public administration and regulatory practice demand that outdated regulation or information requirements be repealed or updated. Both the F9 and OSR1 forms do not appear to have been reviewed or substantially altered for many years. The OSR1 form dates from 1964 and includes references to superseded legislation.

### **Option 2 – Repeal the FA and OSRPA premises notification and general register requirements entirely.**

29. Under this option, the requirements to complete forms to notify new office, shop or factory premises would be removed. The requirement to keep the general register would be abolished. This would remove outdated legislation and unnecessary administrative burdens on business. It would also allow the resources of duty holders, HSE and of local authorities to be better focussed on important workplace health and safety issues. **This is our preferred option.**

### **Gasholders**

30. In option 2 we would have to make alternative provision for the keeping of records of inspection of gasholders, which currently have to be attached to the general register. We propose to simply provide for the records to be kept for the same period as currently required (ie 2 years) and to be available for inspection. This change would be achieved by amending the FA. It would not alter the administrative burden for gasholders and is therefore not discussed under the cost and benefit headings.

## **Costs and Benefits**

## Data Sources and Assumptions

31. There are some uncertainties in our assessment of the costs and benefits.
32. This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME)<sup>4</sup> for estimates of the number of businesses and other regulated entities subject to the information obligations and record keeping requirements. The ABME is also the source of the managerial time and the overall administrative burden which each requirement imposes.
33. The ABME estimates were obtained using the Standard Cost Model<sup>5</sup> (SCM), which provides a simplified, systematic, methodology for estimating the administrative costs<sup>6</sup> imposed by regulation.
34. The costs estimated by the ABME were **indicative only** as they derived from small samples that were not statistically valid.
35. It is important to note that the ABME **assumed full compliance** with each of the regulatory requirements it analysed.
36. Some of the FA information requirements are closely related. For example, steps in a particular statutory process to enable a factory business to start. Rather than “double count” the number of businesses affected in what is essentially a one-off process, the ABME appears to give a single estimate for the number or “population” of businesses affected. Where no number of businesses is stated by the ABME for a specific information requirement, such as the F9 form, we have used the ABME population figure for the closest related information requirement, where we consider it reasonable to do so.
37. The ABME estimated the total of the various FA administrative burdens at £8.6m.
38. The FA figure includes an amount for three requirements related to gasholder safety totalling about £0.1m. No change to these administrative burdens is proposed.
39. The ABME estimated the administrative burden of the OSRPA notification requirement at £12.5m. This figure represents the annual costs to affected businesses of purchasing “goods and services” to comply with the obligation to notify office or shop premises. The ABME assumed that, rather than use internal resources to meet this requirement, business would buy-in services (eg a consultant) instead. Therefore the ABME included no specific assessment of the internal costs (time) or overheads for a business completing the OSR1 form.
40. The ABME did not provide a separate breakdown for the cost of the railway premises notification requirement, ie using form OSR7. The requirement has fallen entirely into disuse and the form is no longer published. The proposed removal of the OSR1 provides the opportunity to eliminate this form also. For the purpose of the options discussed in this impact assessment, we have treated the OSR7 as included in the proposals for the OSR1 form.
41. The total ABME estimate for the FA and OSRPA administrative burdens is approximately £21.1m. The total under consideration in our proposals is £21m (ie not including the gasholder requirements, as explained above).

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<sup>4</sup> The ABME was a government-wide exercise, carried out to provide an indication of the administrative burden on business created by regulations. It estimated the cost associated with complying with administrative tasks (form filling, record keeping etc, including requirements under health and safety legislation) and the total annual administrative cost contained in all legislation in force as at May 2005.

<sup>5</sup> The Standard Cost Model is a pragmatic methodology invented by the Dutch to provide systematic measurement of administrative costs of regulation. More information on the SCM and the methodology can be found on the website of the Department for Business, Enterprise & Regulatory Reform at:

<http://www.berr.gov.uk/bre/policy/simplifying-existing-regulation/administrative-burdens/page44061.html>

<sup>6</sup> Administrative costs are defined as “the recurring costs of administrative activities that businesses are required to conduct in order to comply with the information obligations that are imposed through central government regulation”.

42. **Consultation update:** *While most respondents to the consultation agreed with the impact assessment or made no comment on its assumptions, some respondents challenged claims that the proposals would save business £21m - particularly when, as the consultative document acknowledged, few businesses comply with the requirements and they are rarely enforced.*
43. *In response to this, it may be useful to restate that the ABME cost estimates are indicative only, drawn from small samples and should not be seen as statistically representative. The ABME also assumed full compliance by those subject to a particular information obligation. Estimates of savings to the private sector were therefore based on this assumption.*
44. *The ABME exercise delivered a reasonably consistent estimate of the administrative costs on the private sector, providing regulators with a baseline from which to measure the effect of initiatives to reduce unnecessary burdens.*

### **Sectors and Groups Affected**

45. Most employers of staff in offices and shops in Great Britain are subject to the OSRPA OSR1 requirements and all factories to the FA F9 requirement. Every factory must keep the general register.
46. The term “factory” covers a wide range of premises - from the largest manufacturing enterprises to any workplace where goods are manufactured or persons are employed in “manual labour”, including packaging plants and printing works. The FA requirements also apply to places which are not generally regarded as a factory, such as places where gas is stored in gasholders.
47. The ABME noted that the requirement to notify an office or shop was particularly relevant for those in the micro (0 – 9 employees) business category. The ABME identified 91% of office and shop businesses in this category.

### **Annual Benefits for Business**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

48. There are no benefits from this option.

#### **Option 2 – Repeal the general register and the FA and OSRPA premises notification requirements entirely**

49. According to the ABME estimates, removing these requirements would reduce the administrative burden on business by **£21m** per annum.
50. This option also contributes to the overall simplification of health and safety legislation to which business is subject. It removes, for most businesses, any remaining administrative burden the FA or OSRPA would otherwise have on their operations and helps them to better focus their time and resources on important workplace health and safety issues.

### **Annual Costs for Business**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

51. There are **no changes to administrative burdens or costs** with this option, but without change the current premises notification and record keeping requirements face **several risks**. They include:
- a. Continued inconsistency between the employers and premises subject to the OSR1 and F9 notification requirements and those subject to the Health and Safety at

Work etc Act 1974 (HSWA). For example, not all shop employers have to notify premises but all shop employers are responsible for protecting the health and safety of their staff and other people, such as customers and members of the public, who may be affected by their work.

- b. Unfairness and financial disadvantage for businesses that do comply with the law and incur compliance costs - those who fail to comply gain a financial and commercial advantage over their competitors.
- c. Resources diverted to interpreting and communicating complex or outdated legislation. Whereas modern health and safety legislation, such as the HSWA, focuses on specified duties owed by employers and those “at work”, the FA and OSRPA only apply to employers if they employ staff in premises with particular characteristics defined in legislation. Doubt and uncertainty may arise about whether particular premises are caught by the legislation, thereby necessitating legal advice at extra cost to the enforcing authority or business.
- d. Failure to remove the notification and record keeping requirements would give a further lease of life to legislation for which there is general consensus to repeal. Although total repeal of the remaining FA and OSRPA provisions is not currently proposed, it is important to continue to advance towards this aim and to further simplify the health and safety legislative regime of Great Britain. This was envisaged by the HSWA.
- e. Deterrence of, or impediments to, local small business start-ups, employment growth and difficulties for new migrants or businesses from EU member states in understanding or meeting requirements. Arcane legislation and associated form-filling requirements may inhibit or deter a small business from establishing itself or temporarily entering a market to provide goods or services. For example, the FA requirement to give one month’s notice before occupying or using factory premises or the OSRPA requirement to give advance notice before employing staff in a shop or office may delay or frustrate the capacity of a business to take advantage of quickly emerging market opportunities. These barriers to entry may be particularly challenging to businesses run by newcomers to Great Britain for whom their own small business is a means to economic advancement and financial independence. The growth of the increasingly important services sector of the economy within Great Britain and the European Union generally may be constrained by unnecessary or disproportionate regulations on the provision of services.
- f. Duplication of paperwork. Many businesses are subject to multiple notification requirements in respect of their premises. Multiple information requirements raise business costs and create confusion and uncertainty for smaller businesses already coping with other government notification or record keeping requirements. The Regulators’ Compliance Code requires regulators to explicitly consider how they can reduce costs to business by avoiding duplication of data requests and by sharing data.
- g. Inconsistent notice periods. Different legislation regulating the use of premises requires different notice periods. The FA requires one month and food standards legislation 28 days. The OSRPA does not stipulate a period but still requires prior notification of employment. Businesses must take into account these different periods before starting up in new premises.

## **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

52. There would be some **minimal familiarisation costs** for businesses to take account of the abolition of these requirements.

## **Implementation (start-up) costs for national regulators and local authorities**

### **Option 1 – Do nothing – continue with the existing legislative provisions**

53. There would be no implementation or start up costs for regulators under this option as it assumes no change to the current regulatory regime.

### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

54. Both HSE and local authorities would incur some minor costs in revising procedures and removing information from websites or other information services.

55. There would also be some additional costs in informing business of the abolition of the requirements. As information on the requirements is generally provided through regulators' websites, this cost would be relatively minor.

56. Some local authorities have indicated the requirement to notify office and shops remains an important source of information for their premises register. Abolition of the requirement may result in additional costs for them if they have to develop or refine other sources of information to maintain their premises registers.

## **Annual Benefits for national regulators and local authorities**

### **Option 1 – Do nothing – continue with the existing legislative provisions**

57. There are no additional benefits for HSE or local authorities in maintaining the forms and general register requirements.

### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

58. Information received from initial consultations suggested that enforcing authorities devote few, if any, resources to enforcing the premises notification requirement. Consequently, any savings from abolition are unlikely to be significant.

## **Annual Costs for national regulators and local authorities**

### **Option 1 – Do nothing – continue with the existing legislative provisions**

59. There are no additional costs from maintaining the current legislative regime. However, absence of practical enforcement can lead to a loss of awareness and knowledge of a law and skills in its administration – information and advisory materials on the law may become out of date or irrelevant with consequent uncertainty thereby increasing the likelihood of non-enforcement and non-compliance.

60. Some enforcing authorities may become reliant on information gained through compulsory paper based notification requirements at the expense of more comprehensive, flexible, and efficient data sources. While the challenge of keeping an accurate and current premises database is substantial, dependence on traditional notification processes may deflect authorities from considering approaches more consistent with the principles of better regulation, including those in the Regulators' Compliance Code, such as data sharing within their authority and focussing on higher risk premises.

61. Non-enforcement, inconsistent enforcement and non-compliance can contribute to general disrespect and disregard for the law, making it more difficult for authorities to gain compliance with other legislation and creating loss of trust in authorities' enforcement regimes and policies.

## **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

62. There are unlikely to be any annual costs from abolition of these requirements.

### **Specific Impact Tests**

63. Below is a list of the specific impact tests we have considered.

***Consultation update:*** *No comments or information was received which would suggest our initial assessment of the specific impacts should be revised.*

#### ***Competition Assessment***

64. We do not believe the proposal to remove the FA and OSRPA information requirements will have a significant impact on competition. The current requirements require factory employers to give one month's notice before using premises as a factory, and office and shop employers to give an unspecified period of prior notification of employment. There may be some slight positive impact on competition through removal of the prior notification requirement (ie one month's notice), which is a potential barrier to entry to the market.

65. We have considered the four key questions, namely, whether in any affected market the proposals would:

- a. Directly limit the number or range of suppliers – removal of the requirements will have no effect on the range of suppliers in any market.
- b. Indirectly limit the number or range of suppliers – there is no evidence the proposals will have this effect.
- c. Limit the ability of suppliers to compete – the proposal places no restrictions or limits on suppliers ability to compete.
- d. Reduce suppliers' incentives to compete vigorously – there will be no disincentive to, or other inhibition on, vigorous competition.

#### ***Small Firms Impact Test***

66. Our preferred option will have a beneficial impact on small business by reducing administrative burdens. As previously noted, the FA and OSRPA requirements cover a wide range of employers and businesses across all industry groups. The ABME noted the requirements particularly affected small businesses, which are represented in the growing services, food and hospitality sectors.

67. We are also aware some small businesses have expressed concern at the number of times they are asked to provide the same information to government for various regulatory purposes. Our preferred option will remove at least one form filling obligation for most businesses.

#### ***Legal Aid***

68. There will be no impact on legal aid.

#### ***Sustainable Development/Carbon Assessment/Other Environment***

69. We see no impact on these matters.

#### ***Health Impact Assessment***

70. We have considered the guidance and the screening questions published by the Department of Health on whether the proposals will have an impact on health or health inequalities. We

believe the proposals will have no impact on health.

***Impact on Equality and Human Rights***

71. The proposals will have no adverse impact on race equality, disability equality, gender equality or human rights.

***Rural Proofing***

72. We do not believe our proposals will have a different impact in rural areas from non-rural areas.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

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	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

## **PART II**

### **NORTHERN IRELAND COSTS AND BENEFITS**

#### **The Factories Act (Northern Ireland) 1965 and Office and Shop Premises Act (Northern Ireland) 1966 (Repeals and Modifications) Regulations (Northern Ireland) 2011 (“the NI Regulations”)**

##### **General**

1. The Department of Enterprise, Trade and Investment is of the opinion that the analysis and considerations set out in the Great Britain Impact Assessment can be applied proportionately to Northern Ireland.

##### **Costs**

2. The Great Britain Impact Assessment concluded that there would be some minimal familiarisation costs for businesses to take account of the abolition of the notification and general register requirements. Also that both HSE and Local Authorities would incur some minor costs in revising procedures and removing information from websites etc. It is anticipated that similar minimal costs would arise in Northern Ireland to take account of the abolition of these requirements. HSENI and District Councils would also incur some minor costs in revising procedures and up-dating websites and other information services.

##### **Benefits**

3. Based on the Great Britain Impact Assessment it is estimated that savings to Northern Ireland industry through the reduced administrative burden for businesses should amount to approximately 525,000 per year.
4. HSENI envisages the practical benefits of doing this would be:
  - Simplification of health and safety legislation by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection.
  - Elimination of requirements which could delay the start up of new businesses.
  - Fewer requests for similar data from the same businesses by central government and District Councils.
  - The reduction in administrative burdens will benefit small businesses

##### **Conclusion**

5. Overall it is considered that the impact on NI business would be beneficial. The costs and benefits were indicated in the consultation

document relating to the NI Regulations and consultees were asked for their comments. No adverse comments to the proposals were received.